

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

32 CIVIL APPLICATION NO. 14034 OF 2018
IN FAST/5044/2018

THE G.M.I.D.C, THROUGH THE EX. ENGINEER,
LATUR MINOR IRRIGATION DIV. LATUR AND OTHERS
VERSUS
SHIVRAJ BABURAO BIRADAR AND OTHERS

Advocate for Applicants : Mr. A.M. Gaikwad.
Advocate for Respondent Nos. 1 to 6 : Mr. H.B. Nandagavale
h/f. Mr. V.G. Sakolkar.

CORAM : MANGESH S. PATIL, J.
DATE : 16.12.2019

PER COURT :

Heard both the sides.

2. This is an application under Section 5 of the Limitation Act, 1963, filed by the acquiring body for condonation of delay in filing appeal against the judgment and order passed by the reference Court in a proceeding under Section 18 of the Land Acquisition Act.

3. The learned advocate for the applicants submits that the reference Court has granted exorbitant increase without there being any sufficient material. If the appeal is not allowed to be filed, it would put burden on the public money. The delay has occasioned for the reasons mentioned in the application to complete the formalities leading up to filing the appeal. There were no mala fides. Since the burden to pay interest at a statutory rate is enormous, the acquiring body would not have gained anything by causing the delay and hence, it may be condoned.

4. The learned advocate for the respondents - claimants strongly opposes

the application. He submits that the delay has not been properly explained by the acquiring body for considering the request for condonation of delay. The provisions of the Land Acquisition Act should apply to seek recourse even against the acquiring body and the application may be rejected.

5. At the outset, it is necessary to observe that the respondents have not filed any reply opposing the application. Meaning thereby, the grounds mentioned in the application have gone uncontroverted.

6. As is pointed out by the learned advocate for the acquiring body regarding the burden of paying interest at the statutory rate, one cannot comprehend as to how it would stand to gain by causing the delay.

7. No mala fides have also been pointed out.

8. For the reasons mentioned in the application, the delay of **1689** days is condoned. The application is disposed of.

9. Register the appeal.

10. Issue notice to respondents. Learned advocate Mr. H.B. Nandagavale holding for advocate Mr. Sakolkar, waives service for the respondents – claimants.

10. Admit.

11. Call record and proceedings.

(MANGESH S. PATIL, J.)