

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

**CIVIL APPLICATION NO.14152 OF 2013
IN FAST/26841/2013**

THE EXECUTIVE ENGINEER, MEDIUM PROJECT DIVISION, OSMANABAD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Applicant : Mr. Gulab Rajale
AGP for Respondent No.1 - State : Mr. B. V. Virdhe

...
WITH CA/15888/2013 IN FAST/26838/2013
...

CORAM : K.K. SONAWANE, J.

DATED : 17th JUNE, 2019

Order :-

Heard learned counsel for applicant- Acquiring Body and learned AGP for respondent-State. Despite service of notice, none appears for respondents-original claimants. Perused applications and other relevant documents.

2. The applicant-Acquiring Body moved present applications for condonation of delay in filing the first appeals against impugned Judgment and Award passed by the learned Reference Court in Land Acquisition References filed under section 18 of the Land Acquisition Act, 1894. According to learned counsel for the applicant, impugned Judgment and Award passed by the Reference Court is erroneous, illegal and not as per the provisions of Land Acquisition Act, 1894. The applicant is Body corporate having its independent entity. After procuring the funds for court fees appeals came to be filed, however, there is delay in filing the appeals. According to learned counsel for applicant, delay so caused is not intentional or deliberate, but caused due to compliance of official process. Therefore, he prayed to condone the delay.

3. The learned AGP for respondent No.1 - State submits for suitable order in the interest of justice.

4. As referred supra, despite service of notice, no one has caused appearance on behalf of respondents (original claimants), therefore, opportunity is not received for hearing to them. In view of the nature of subject matter, I proceed further to adjudicate the applications for condonation of delay on merit in the interest of justice.

5. Admittedly, the matters pertain to the land acquisition proceedings involving public funds. The applicant- Acquiring Body is the Government Agency looking after the irrigation projects. The applicant - Acquiring Body filed present appeal on the ground that the learned Reference Court determined exorbitant market value for the land under acquisition. It is settled law that, liberal and pragmatic approach is essential to be adopted by avoiding pedantic approach while dealing with the application for condonation of delay. Hence, I do not find any impediment to condone the delay. In such circumstances, the applications for condonation of delay caused for filing appeal against impugned Judgment and Award passed by the Reference Court deserve to be allowed.

6. Accordingly, the civil applications for condonation of delay stand allowed in terms of prayer clause 'B'. The delay caused for filing First Appeal against impugned Judgment and Award is hereby condoned. The civil applications are disposed of in above terms. Registry to take requisite steps for further process.

7. After registration of appeal, issue notice for final hearing of the appeals at the admission stage to the respondents. Learned AGP waives service of notice for respondent No.1-State.

8. Meanwhile, call for record and proceedings from the concerned Reference Court.

9. List the appeals for hearing at the admission stage in due course.

[K. K. SONAWANE, J.]