

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 14459 OF 2016
IN CRAFT/27530/2016

SAYYED JAFAR MEHTABSAHEB AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA, THROUGH ITS COLLECTOR, LATUR
AND OTHERS

Advocate for Applicants : Mr. S.V. Gundre.
AGP for State : Mr. S.K. Tambe.

CORAM : M.S. Karnik, J.
Dated : 06.08.2019

Per Court :

1. This is an application for condoning the delay of 1528 days in filing the Civil Revision Application. In the application it is stated that the award in the land reference proceedings was made on 27.03.2012. The applicant got knowledge of the said award from the concerned clerk of the Court on 29.07.2016. Not being satisfied with the reasons mentioned in the application, this Court had permitted the applicant to file an additional affidavit explaining the delay. An additional affidavit accordingly came to be filed by the applicant on 17.07.2017.

2. In the said application, it is stated that even during the pendency of the land reference proceedings, the deponent i.e. Sayyed Jafar Mehtabsaheb has

suffered a paralytic attack and was undergoing treatment for years together and was bed ridden. The deponent's family was facing financial crisis and his wife is uneducated. The deponent, therefore, could not communicate with the advocate. The deponent's son Rashid met with an accident on 19.09.2010 and the family had to face unbearable trauma.

3. It was in the year 2016, when the adjoining land holders received enhanced amount of compensation, the deponent along with the applicant no. 2 tried to contact their advocate but could not establish contact. The deponent, thereafter, obtained the certified copy from the Court where the land acquisition reference was allotted. They were informed by the concerned Court clerk that the reference was dismissed long back.

4. Learned AGP for respondent Nos. 1 and 3 and learned counsel for respondent No. 2 opposed the application. The learned counsel for the respondent No. 2 states that there is gross delay in the filing the application. According to him no satisfactory reasons are mentioned in the application. He would submit that the applicants are not diligent in pursuing the proceedings and it is only because adjoining land holders are in receipt of enhanced compensation that the applicants are now seeking condonation. According to him, this would not constitute a sufficient cause.

5. I have gone through the application. It is stated in the application that the deponent suffered a paralytic attack and he was bed ridden. Moreover, the deponent lost his son in the year 2010. There are averments made in application that the family was suffering because of ailment of the deponent and trauma suffered by them as a result the loss of the son of the deponent. Considering that the matter pertains to awarding compensation in land reference proceedings, in my opinion, the reasons stated in the application for condonation of delay deserves acceptance.

6. The delay in the filing in the present application is condoned. Civil Application is allowed.

(M.S. Karnik, J.)

S.P.C.