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

**BENCH AT AURANGABAD**

918 CIVIL APPLICATION NO.14767 OF 2011  
IN FAST/30285/2011

THE MAHARASHTRA STATE INDUSTRIAL DEVELOPMENT CORPORATION  
VERSUS

KAUSABAI RAOSAHEB PAWAR AND ANOTHER

...

Advocate for Applicant : Shri Dande Shrirang S.

Respondent no.1 served.

AGP for Respondent no.2: Shri B.V. Virdhe

**CORAM: V.L. ACHLIYA, J.**

**DATE: 16.04.2019**

**PER COURT :**

1] The applicant has moved this application seeking condonation of delay of 329 days in filing appeal for the reasons set out in detail in the application.

2] Heard learned counsel for the applicant / appellant. The respondent no.1 – claimant though served is absent. Learned AGP appears for the respondent no.2.

3] In brief, it is the contention of learned counsel for the applicant that the delay caused in filing appeal had occurred due to shifting of office from Pune to Mumbai. Therefore, immediately the decision could not be taken in the matter at higher level to file appeal in the

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matter. In the process, there was delay of 329 days caused in filing appeal. The Special Land Acquisition Officer has granted compensation at the rate of Rs.2900/- per Hectare and the Reference Court has enhanced the same to Rs.52,000/- per Hectare, that too without any evidence adduced in the matter on the part of the respondent no.1. While enhancing the compensation, the Reference Court has relied upon the decision of reference decided in another land acquisition proceeding, which is the subject matter of appeal before this Court. It is submitted that in the reference proceedings, it is incumbent upon the claimant to adduce evidence to establish that the compensation awarded is not the fair compensation. No such evidence has been adduced on the part of the respondent still the Reference Court has enhanced the compensation. In this background, the learned counsel submits that in case delay is not condoned, there is every likelihood that a meritorious matter may be rejected for technical reasons. On the contrary, if delay is condoned, no serious prejudice would be caused to the respondents as the appeal will be decided on its own merits.

4] Considering the submissions advanced in the light of

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unchallenged pleadings made in the application explaining the cause for condonation of delay, I am of the view that the application deserves to be allowed. In case delay is not condoned, there is every likelihood that a meritorious matter may be rejected for technical reason. Keeping in mind the broad principles laid down by the Apex Court in the case of *Esha Bhattacharjee V/s Managing Committee of Raghunathpur Nafar Academy and others* reported in (2013)12 S.C.C., 649, I am of the view that the delay deserves to be condoned.

5] Accordingly, the application is allowed in terms of prayer clause (B). Delay condoned. Appeal be registered and placed for admission on 24.6.2019.

6] Call R & P.

**(V.L. ACHLIYA, J.)**