

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

**CIVIL APPLICATION NO.2148 OF 2014
IN FAST/32749/2013**

EXECUTIVE ENGINEER, IRRIGATION DEPARTMENT STRENGTHENING
DIVISION, OMERGA

VERSUS

SHRIDHAR AMBADAS JADHAV AND ANOTHER

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Advocate for Applicant : Mr. Shirish G. Sangle

Advocate for Respondent No.1-claimant : Mr. Vivekanand B. Deshmukh

Advocate for Respondent No.2- State : Mr. B. V. Virdhe

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CORAM : K.K. SONAWANE, J.

DATED : 17th JUNE, 2019

Order :-

Heard learned counsel for applicant- Acquiring Body and learned counsel for respondent No.1 (original claimant) as well as learned AGP for respondent No.2 - State. Perused application and other relevant documents.

2. The applicant-Acquiring Body moved present application for condonation of delay in filing the first appeal against impugned Judgment and Award passed by the learned Reference Court in Land Acquisition Reference 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, appeal came to be filed, however, there is delay in filing the appeal. 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. Learned counsel for respondent No.1-original claimant raised objections and submits that satisfactory reasons for such inordinate and huge delay caused for filing first appeal has not been properly

explained by the applicant. He requested to reject the application. The learned AGP for respondent No.2 - State submits for suitable order in the interest of justice.

4. I have given anxious consideration to the submissions advanced on behalf of both sides. Admittedly, matter pertains 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 application for condonation of delay caused for filing appeal against impugned Judgment and Award passed by the Reference Court deserves to be allowed.

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

6. After registration of appeal, issue notice for final hearing of the appeal at the admission stage to the respondents. Mr. V. B. Deshmukh, learned counsel waives service of notice for respondent No.1-claimant, whereas, learned AGP waives service of notice for respondent No.2-State.

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

8. List the appeal for hearing at the admission stage in due course.

[K. K. SONAWANE, J.]