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

**923 CIVIL APPLICATION NO.1351 OF 2017
IN FAST/36977/2016**

**LIMBABAI MANOHAR FAD
VERSUS
THE STATE OF MAHARASHTRA AND ORS**

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Advocate for Applicant : Mr. Amit S. Deshpande
AGP for Respondents : Mr. A.M. Phule
Advocate for Respondent No.3 : Mr. Ram Deshpande

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**CORAM : P.R. BORA, J.
DATED : 22nd JANUARY, 2019.**

PER COURT:-

. Heard Shri Amit Deshpande, the learned counsel appearing for the applicant and the learned AGP Shri Phule appearing for respondent nos. 1 and 2 and Shri Ram Deshpande, the learned counsel appearing for respondent no.3.

2. Delay of 1539 days has occurred in filing the present appeal by the appellant-applicant. The learned counsel for the applicant submitted that connected appeals arising out of the same acquisition proceedings are admitted and are pending for hearing. The learned counsel submitted that for bonafide reasons the applicant could not file the appeal within the stipulated period of limitation. However, the delay is unintentional.

The learned counsel further submitted that the applicant is ready to waive the right to receive interest for the period of delay in the event of success in appeal.

3. Shri Phule the learned AGP and Shri Ram Deshpande opposed for condoning the delay stating that the huge delay is not appropriately justified.

4. I have considered the submissions advanced by the learned counsel appearing for the parties. In view of the fact that the connected appeals are admitted and are pending for hearing, the present applicant needs to be given an opportunity to prosecute her appeal on merits. Moreover, the applicant at her own has the right to claim interest of the period of delay. In the result, the following order is passed:

ORDER

- i) The application is allowed.
- ii) The delay caused in filing the appeal is condoned. The appeal be registered in accordance with law.
- iii) It is clarified that in the event of success in appeal, the appellant-applicant shall not be

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entitled for interest of the period of delay on the enhanced amount of compensation.

iv) Copy of the present order be placed in the record of the appeal.

v) After registration of the appeal, issue notice to the respondents. The learned AGP Shri Phule waives notice for respondent nos.1 and 2 and Shri Ram Deshpande waives notice for the acquiring body. Service complete.

vi) List the appeal for further consideration after four weeks.

(P.R. BORA, J.)

Mujaheed//