

**FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.2429/2019
in
FIRST APPEAL (ST)19123/2019**

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Advocate Mr.T.J.Pandian for applicant in all civil applications.

Advocate Mrs. Sapana Rachure, with Manjit Thakur for Respondent no.1 in all civil applications.

**CORAM : K. K. TATED, J
DATE : AUGUST 5, 2019.**

P.C.:

Heard learned Advocate Mr.T.J.Pandian for applicant and Advocate Mrs.Sapana Rachure for Respondent no.1/original claimant.

2 By this civil application, applicant/Union of India is seeking condonation of 262 days delay in filing First Appeal challenging Judgment and Award dated 21.7.2018 passed by Civil Judge, Senior Division, Alibag

in LAR No. 59/2001 holding that Respondent/claimant is entitled additional compensation in respect of acquired land.

3. Learned counsel Mr.Pandian for applicant submits that they learnt about order passed by reference court when they received letter dated 24.1.2019 from respondent/claimant. Thereafter they immediately made reference to higher authority for taking decision. He submits that before filing appeal on behalf of Union of India they have to take decision at several levels. Hence, there is delay in filing first appeal.

4 Learned counsel for applicant submits that they have good chance of success in the matter. He submits that in the interest of justice, this Court be pleased to condone the delay in filing First appeal. He submits that if delay is not condoned, irreparable loss will be caused to applicant.

5 On the other hand, learned counsel for respondent/claimant, vehemently opposed present civil application. Respondent filed their affidavit in reply dated 22.7.2019 to

oppose present civil application. Learned Advocate for respondent/claimant submits that applicant failed to disclose any sufficient cause for condonation of inordinate delay of 262 days in filing First Appeal. She submits that for want of sufficient cause, there is no question of allowing present civil application. She also relied on Judgment of Apex Court in the matter of **Balwant Singh Vs. Jagdish Singh & Ors. reported in AIR 2010 SC 3043.** On the basis of this submission, learned counsel for respondent submits that there is no substance in the present application and same is required to be dismissed with cost.

6 I heard both sides at length. It is to be noted that, applicant explained in para 3 to 6 of their application that as soon as they received letter dated 24.1.2019, from respondent/claimant they immediately started taking steps to file present first appeal. It is to be noted that, to file appeal on behalf of the Government Organization, they have to take approval from several departments. In the present proceeding, though applicant engaged advocate to protect their interest in reference court, the

said Advocate failed to communicate date of order and or copy to applicant. Considering these facts, I am of the opinion that authority by the respondent in the matter of Balwant Singh cited supra is not applicable in the present case. Therefore, I am of the opinion that applicant has made out a case for allowing this civil application but at the same time, they have to pay cost of Rs.5000/- to respondent/claimant. Hence, the following order.

a) Delay in filing first appeal is condoned.

b) Applicant to pay cost of Rs.5000/- to respondent/claimant and or deposit in Registry of this Court on or before 31.8.2019 failing which civil application shall stand dismissed without referring back to the court.

c) If amount is deposited in the Registry of this Court, in that case, Respondent/claimant is permitted to withdraw the same without furnishing any security.

d) If cost is paid directly to respondent, or

their advocate, in that case, the applicant to place on record receipt to that effect on or before 31.8.2019.

e) Civil application allowed accordingly.

(K.K.TATED, J.)