

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

**917 CIVIL APPLICATION NO.2723 OF 2020
IN FAST/2637/2020**

EXECUTIVE ENGINEER, IRRIGATION PROJECT STRENGTHENING
DIVISION, OMERGA

VERSUS

MATHURABAI VITTHAL KUMBHAR AND ORS

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Advocate for Applicant : Ms.Sunita Dasharat Shelke

Advocate for Respondents No.1 & 2 : Mr.L.C.Patil

AGP for Respondents No.3 & 4 : Mr.S.N.Morampalle

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CORAM : K.K.SONAWANE, J.

DATE: 4th March, 2020

PER COURT:-

1. Issue notice to the respondents. Mr.L.C.Patil, learned counsel waives service of notice for respondents No.1 and 2. Learned AGP waives service of notice for respondents No.3 and 4.
2. Heard learned counsel for the applicant-Acquiring Body and learned counsel for respondents-claimants as well as learned AGP for the respondents-State Authorities. Perused the application and other relevant documents produced on record.
3. The applicant-Acquiring Body moved present application for condonation of delay caused 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-Acquiring Body, impugned Judgment and Award passed by the Reference Court is erroneous, illegal and is not as per the provisions of Land Acquisition Act, 1894. 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.

4. Learned counsel appearing for respondents-claimants raised objections and submits that delay has not been explained satisfactorily. The learned Reference Court has correctly appreciated evidence on record and awarded reasonable market value for the acquired land. Therefore, delay may not be condoned.

5. I have given anxious consideration to the submissions advanced on behalf of both the learned counsel. Considering the nature of the subject-matter and reasons mentioned in the application, I do not find any impediment to allow the application for condonation of delay. The public interest is involved into the matter. *It is settled law that liberal and pragmatic approach is essential to be adopted by avoiding pedantic approach while dealing with the application for consideration of delay. Therefore, it is imperative to grant some sort of latitude to the applicant - Acquiring Body to present an appeal by condoning the delay. It would not cause any prejudice or injustice to the respondent.* In contrast, it would sub-serve the purpose of substantial justice. Hence, the application for condonation of delay deserves to be allowed. In sequel, the application stands allowed in terms of prayer clause (B). Delay caused in filing appeal against the impugned Judgment and Award is hereby condoned. Registry to take requisite steps for registration of appeal. Civil application stands disposed of accordingly.

6. On registration of appeal, issue notice of admission of appeal to the respondents. Mr.L.C.Patil, learned counsel waives service of notice for respondents No.1 and 2. Learned AGP waives service of notice for respondents No.3 and 4.

7. After compliance of procedural formalities, list the appeal for further process in due course.

(K.K.SONAWANE)
JUDGE