

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

**956 CIVIL APPLICATION NO.807 OF 2020
IN FA/1658/2014**

BHIKAN BANDU SALMOTHE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

Advocate for Applicant : Mr.Nandkishor J. Pahune Patil
AGP for Respondent No.1 : Mr.R.B.Bagul

CORAM : K.K.SONAWANE, J.

DATE: 6th February, 2020

PER COURT:-

1. Heard learned counsel for the applicant. Perused the application and the impugned order passed by the learned Registrar (Judicial) dated 09.12.2014 for dismissal of the appeal against respondent No.2.
2. Learned counsel for the applicant submits that inadvertently there was no compliance of the procedural formalities for payment of Bhatta and supply of copies of the relevant documents, which resulted into dismissal of the appeal against respondent No.2. He has given undertaking to do the needful within one week in case the matter is restored against respondent No.2 to its original stage.
3. It is not in dispute that the applicant-original claimant has preferred First Appeal No.1658 of 2014 against the respondent No.1 - State of Maharashtra and respondent No.2 - The Executive Engineer (Irrigation), Zilla Parishad, Aurangabad, being Acquiring Body. But, for want of taking steps for compliance of procedural formalities within the stipulated period, the

proceeding of First Appeal came to be dismissed against respondent No.2-Acquiring Body. However, the appeal was kept pending for further process against respondent No.1 - State of Maharashtra. In view of attending circumstances on record, I do not find any impediment to give one more opportunity to the appellant-original claimant for taking steps within one week after restoration of the appeal against respondent No.2 at its original stage. Definitely, it would sub-serve the purpose of substantial justice. Hence, the application deserves to be allowed.

4. Accordingly, application stands allowed in terms of prayer clause-'B' to 'D'. The delay caused in filing present application is condoned. The impugned order passed by the learned Registrar (Judicial) is hereby quashed and set aside. Proceeding of First Appeal No.1658 of 2014 be restored at its original stage. The applicant shall take requisite steps for payment of Bhatta, supply of copies etc. within a period of one week from restoration of appeal against respondent No.2 at its original stage. In case of failure, the present order shall stand vacated without further reference to this Court.

5. In case, requisite steps are taken by the applicant within one week, issue notice to respondent No.2, returnable on 12.03.2020.

6. Accordingly, application stands disposed of.

(K.K.SONAWANE)
JUDGE