

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

926 CIVIL APPLICATION NO.8881 OF 2018
IN FAST/13008/2018

THE EXECUTIVE ENGINEER THR GAJANAN SIDAPPA HOLKAR
VERSUS
DATTATRAYA SHIVAPPA KABADE AND ANR

...
Advocate for Applicant : Mr. Suresh N. Rodge and
Smt. S S Renge (doke)
AGP for Respondent No. 2 : Mr. S.P. Deshmukh

...
CORAM : K.K. SONAWANE, J.

DATED : 15th JANUARY, 2020.

ORDER :-

1. Mr. Rodge, learned counsel for applicant – Acquiring Body submits that now Acquiring Body has appointed another counsel on their Panel in present matter, therefore, his appearance be discharged.
2. In view of aforesaid submission, appearance of Mr. Rodge, on behalf of applicant-appellant stands discharged.
3. Smt. Doke, learned counsel submits that she has instructions to appear on behalf of applicant- Acquiring Body and undertakes to file *Vakalatnama* in the Registry during the course of day.
4. Heard learned counsel for the applicant - Acquiring Body as well as learned AGP for respondent No. 2. Despite service of notice, no appearance is caused on behalf of respondent No. 1-original claimant.
5. The applicant - Acquiring Body moved the present applications for condonation of delay in filing the first appeal against impugned Judgment and Award passed by the learned Reference Court in Land Acquisition References 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 - Body corporate having its independent entity.

After procuring the funds for court fees appeals 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.

6. The learned learned AGP raised objection and submits that there is inordinate delay, which has not been explained satisfactorily, therefore, the same cannot be condoned and prayed for rejection of applications.

7. I have given anxious consideration to the submission of both 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 deserve 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 stand disposed of accordingly.

5. On registration of appeal, issue notice to the respondents. Learned AGP waives service of notice for respondent No. 2.

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

7. List the appeal for admission in due course.

[K. K. SONAWANE]
JUDGE