

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

932 CIVIL APPLICATION NO.9078 OF 2019
IN FAST/13864/2019 WITH CA/9081/2019 IN FAST/13864/2019

THE EX. ENGINEER, MINOR IRRIGATION DIVISION, OSMANABAD
VERSUS
DADASAHEB DNYANOBA KAPASE AND ORS

Advocate for Applicant : Mr. Ram B. Deshpande
AGP for Respondent nos. 2 and 3: Mr. S.N. Morampalle.

CORAM : K.K. SONAWANE, J.

DATE : 11th FEBRUARY, 2020.

PER COURT:

1] Heard learned counsel for the applicant/Acquiring Body. Despite service of notice nobody appears on behalf of respondent No. 1. AGP appears for respondent Nos 2 and 3.

2] Perused the application filed for condonation of delay caused for filing First Appeal against the impugned judgment and award passed by the learned Reference Court in LAR No. 349 of 2014. Learned Counsel for applicant/s submits that the delay is not deliberate and intentional but caused owing to administrative compliance. As such, he prayed to condone the delay.

3] As referred above, despite service of notice nobody appears for respondent No. 1. As such, this court did not receive any opportunity to hear the respondent No.1.

The learned AGP opposed the application on the ground that the delay has not been properly explained. So, the same may not be condoned.

4] I have heard the submission canvassed on behalf of

learned counsel for applicant Acquiring Body. Perused the application as well as the impugned judgment and award against which the applicant Acquiring Body is intending to file an appeal.

5] The matter pertains to land acquisition proceeding. It has been contended that after the impugned judgment and award of the Reference Court, the Acquiring Body being an independent institution, approached to its counsel as directed by the superior officers and obtained the tentative figure of proposed expenditure for filing an appeal. The applicant Acquiring Body made necessary arrangement of finance for requisite court fees etc., and thereafter preferred the present appeal with application for condonation of delay. The impugned delay was not intentional and deliberate but owing to compliance of official process.

6] I am of the considered opinion that reasonable opportunity needs to be given to the applicant Acquiring Body to ventilate its grievances in the appellate forum. The appellant is the Government Agency I.e. Acquiring Body and in view of public interest, it is imperative to extend latitude while dealing with the condonation of delay, by adopting liberal and pragmatic approach. If the appeal/s of the appellant acquiring body is/are not allowed to be presented for further process on the ground of such default of delay, no person is individually affected but, ultimately, the public interest would be at stake. Therefore, I do not find any impediment to allow 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 interest of justice. Hence, the application for condonation of delay deserve to be allowed. In sequel, the applications stand 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.

7] On registration of appeal, issue notice to respondents. R. & P. be called. Learned AGP waives notice for respondent Nos. 2 and 3. After compliance of procedural formalities and receipt of R. & P. matter be placed for admission in due course.

[K.K. SONAWANE]
JUDGE.

Grt/-.