

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

**938 CIVIL APPLICATION NO.8875 OF 2018
IN FAST/14407/2018**

THE EX. ENGINEER, MINOR IRRIGATION DIV. OSMANABAD AND
ORS.

VERSUS

BALKRISHANA VISHNUDAS MANTRI AND ANR

...
WITH CA/8879/2018 IN FAST/14562/2018

...
Advocate for Applicant-Acquiring Body : Mr.J.R.Patil h/f.
Mr.Gulab B.Rajale

Advocate for Respondents-claimants : Mr.Swapnil S. Rathi

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

DATE: 26th February, 2020

PER COURT:-

1. Heard learned counsel for the applicant-Acquiring Body and learned counsel for the respondents-claimants. Perused the applications and relevant documents produced on record.
2. Applicant-Acquiring Body moved present applications for condonation of delay caused in filing first appeals 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 is 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 appeals. According to learned counsel for

applicant, delay so caused is not intentional or deliberate, but caused due to compliance of official process.

3. 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 lands. Therefore, delay may not be condoned.

4. 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 applications, I do not find any impediment to allow the applications 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 appeals by condoning the delay. It would not cause any prejudice or injustice to the respondents.* In contrast, it would sub-serve the purpose of substantial justice. Hence, the applications for condonation of delay deserve to be allowed. In sequel, the applications stand allowed in terms of prayer clause (B). Delay caused in filing appeals against the impugned Judgment and Award, is hereby condoned. Registry to take requisite steps for registration of appeals. Civil applications stand disposed of accordingly.

5. On registration of appeals, issue notice of admission of appeals to the respondents. Mr.S.S.Rathi, learned counsel waives service of notice for respondents-claimants.
6. Call for Record and Proceeding from the concerned learned Reference Court.
7. After compliance of procedural formalities, list the present appeals for admission on 27.03.2020.

(K.K.SONAWANE)
JUDGE

SPT