

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

CIVIL APPLICATION NO. 6534 OF 2019 IN FAST/15532/2019

THE CHIEF ENGINEER, (CONSTRUCTION) RAILWAY, MUMBAI AND THE
DEPUTY CHIEF EX. ENGINEER, (CONSTRUCTION) C.R.DIV. SOLAPUR
VERSUS

GURUNATH VISHWANATH IGAWE AND OTHERS

...
Advocate for Applicants : Mr. D. V. Soman
Advocate for Respondent No.1 : Mr. Sharad S. Halkude
AGP for Respondents No.2 and 3 : Mr. S. N. Morampalle

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

DATED : 04th MARCH, 2020.

ORDER :-

Heard learned counsel for the applicant-Acquiring Body and learned counsel for the respondent No.1-original claimant as well as learned AGP for respondents No.2 and 3. Perused the application and other relevant documents produced on record.

2. The applicants- Acquiring Body moved present application for condonation of delay of 2320 days caused in filing the first appeal against impugned Judgment and Award passed by the learned 2nd Joint Civil Judge, Senior Division, Latur, in the proceeding of LAR No. 624 of 2003, dated 26-09-2012, 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 learned Reference Court is erroneous, illegal and is not as per the provisions of Land Acquisition Act, 1894. The 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-Acquiring Body, delay so caused is not intentional or deliberate, but, caused due to compliance of official process.

3. Learned counsel for respondent No.1-claimant has raised objections and submits that delay has not been properly explained and same may not be condoned.

4. Learned AGP for respondents No.2 and 3 submits that suitable orders may be passed.

5. I have given anxious consideration to the submissions advanced on behalf of learned counsel for both the sides. Considering the nature of 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 respondents. 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 Civil Application stands allowed in terms of prayer clause (B). Delay of 2320 days caused in filing first appeal against the impugned Judgment and Award is hereby condoned. Registry to take requisite steps for registration of appeal. The Civil Application is disposed of, accordingly.

6. On registration of appeal, issue notice to the respondents. Mr. S. S. Halkude, learned counsel waives service of notice for respondent No.1-original claimant, whereas, learned AGP waives service of notice for respondents No.2 and 3 – State of Maharashtra and Special Land Acquisition Officer.

7. Meanwhile, call for record and proceeding from the concerned Reference Court.

8. After compliance of procedural formalities, list the first appeal for admission in due course.

Sd./-

[K. K. SONAWANE]
JUDGE