

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

CIVIL APPLICATION NO.9095 OF 2017 IN FAST/20252/2017

THE EX. ENGINEER, MEDIUM PROJECT DIV. OSMANABAD AND ANR
VERSUS
SHAKUNTALA UTTAM GANGAWANE

...
Advocate for Applicant No.1 : Mr. U. P. Giri
Advocate for Respondent-sole : Mr. R. K. Ashtekar

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

DATED : 04th MARCH, 2020.

ORDER :-

Heard learned counsel for the applicant-Acquiring Body and learned counsel for the respondent-original claimant. Perused the application and other relevant documents produced on record.

2. The applicant- Acquiring Body moved present application for condonation of delay of 1717 days caused in filing the first appeal against impugned Judgment and Award passed by the learned 5th Joint Civil Judge, Senior Division, Osmanabad, in the proceeding of Land Acquisition Reference No. 190 of 1998, dated 05-07-2012, 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 No.1 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-claimant has raised objections and submits that delay has not been properly explained and same may not be condoned.

5. I have given anxious consideration to the submissions advanced on behalf of learned counsel for applicant-Acquiring Body. 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 deserve to be allowed. In sequel, the Civil Application stands allowed in terms of prayer clause (B). Delay of 1717 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 respondent-claimant. Mr. R. K. Ashtekar, learned counsel waives service of notice for sole-respondent-original claimant.

7. Meanwhile, call for record and proceedings 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