

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

35 CIVIL APPLICATION NO.10021 OF 2019
IN FAST/19479/2019

EX. ENGINEER, OSMANABAD MINOR IRRIGATION DIVISION,
OSMANABAD UNDER G.M.I.D.C., AURANGABAD
VERSUS
GUNAJI VISHWANATH SONKAWADE

...
Advocate for Applicant : Mr. B.R. Surwase
AGP for co-applicants: Mr. S.P. Deshmukh
Respondent-Claimant : Served

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

DATED : 3rd FEBRUARY, 2020.

ORDER :-

1. Heard learned counsel for the applicant - Acquiring Body as well as learned AGP for co-applicants No. 2 and 3. Despite service of notice, no appearance is caused on behalf of respondent - original claimant.

2. The applicant No. 1 - Acquiring Body moved the present application 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 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, delay so caused is not intentional or deliberate, but caused due to compliance of official process.

3. Despite service notice, no appearance is caused on behalf of respondent-original claimant, therefore, there is no opportunity to hear the respondent.

4. The learned AGP for co-applicants No. 2 and 3 submits that suitable orders may be passed.

5. 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 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 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 stands disposed of accordingly.

6. On registration of appeal, issue notice to the respondent-original claimant.

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

8. List the appeal for admission on 09-03-2020.

Sd./-

[K. K. SONAWANE]
JUDGE

MTK