

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

**917 CIVIL APPLICATION NO.6965 OF 2019
IN X-OBJST/24065/2018**

LAXIMIBAI PANDURANG MORE (DIED) THR. LRS SUBHASH P.
MORE AND ORS
VERSUS
THE STATE OF MAHARASHTRA AND ORS.

Advocate for Applicants : Mr.M.K.Jadhav h/f. Mr.Abhijit S. More
AGP for Respondents No.1 to 3 : Mr.S.P.Deshmukh

CORAM : K.K.SONAWANE, J.
DATE: 7th January, 2020

PER COURT:-

1. Heard learned counsel for the applicants and learned AGP for the respondents.
2. Present application is filed seeking condonation of 288 days delay caused in filing Cross-Objection against the impugned Judgment and award passed by the learned Civil Judge, Senior Division, Paranda in LAR No.507 of 2012, dated 14.01.2016.
3. Learned counsel for the applicants submits that the applicants had preferred the Reference Petition under Section 18 of the Land Acquisition Act, 1894, for grant of enhancement in the compensation amount. The Reference Petition was adjudicated on merits and learned Reference Court granted enhancement in the compensation amount for the acquired land of the claimants-applicants. But, the learned Reference Court did not appreciate the factual aspects in proper manner and awarded meager amount of compensation. It has been submitted that there is proceeding of First Appeal No.2833 of 2017 filed against these applicants by the respondents, arising out of the same award. The respondents have filed aforesaid appeal against the market value determined by the Reference

Court under Section 18 of the Land Acquisition Act. The applicants-claimants are intending to file Cross-Objection against the same impugned Judgment and award of the Reference Court, but there is delay in filing Cross-Objection. The learned counsel for the applicants submits that a reasonable opportunity be given to the applicants for seeking relief of enhancement of compensation in this matter. According to the learned counsel, delay caused is not intentional and deliberate, but caused due to unavoidable circumstances.

4. Learned AGP for the respondents submits that there is inordinate delay, which has not been explained satisfactorily. Therefore, the same cannot be condoned and prayed for rejection of the application.

5. Perused the application and relevant documents on record. It is to be noted that the respondents have already preferred First Appeal No.2833 of 2017 against the impugned Judgment and award passed by the learned Reference Court in LAR No.507 of 2012, which is pending before this Court. Aforesaid appeal is filed by the respondents against findings of the learned Reference Court for determining the correct market value on the ground that the market value determined is exorbitant and excessive one. The present Cross-Objection is also against the impugned Judgment and award passed by the learned Reference Court in the similar Reference Petition No.507 of 2012. The applicants are also intending to challenge the findings for awarding meager compensation amount and also intend to seek enhancement in the amount of compensation.

6. In view of the aforesaid circumstances and for the reasons mentioned in the application, I find that it would be justifiable to give reasonable opportunity to the applicants in the interest of

justice to ventilate their grievances. There is sufficient cause to grant the applications for condonation of delay. Therefore, there is no impediment to allow the applicants to file Cross-Objection, which would facilitate this Court to appreciate the contentions of both applicants and the respondents simultaneously for substantial justice into the matter. It is the rule of law that the Court should adopt liberal and pragmatic approach by avoiding pedantic approach while dealing with the application for condonation of delay. In view of aforesaid circumstances, there is no impediment to condone the delay. The application for condonation of delay deserves to be allowed.

7. Accordingly, application stands allowed in terms of prayer Clause-'A'. The delay caused in filing Cross-Objection against the impugned Judgment and award passed by the learned Civil Judge, Senior Division, Paranda in LAR No.507 of 2012, is hereby condoned. Registry to take requisite steps for further process.

8. On registration of Cross-Objection, issue notice to the respondents. Learned APP waives service of notice for respondents No.1 to 3.

9. Record and Proceeding has already received in the proceeding of First Appeal No.2833 of 2017.

10. Present Cross-Objection be tagged with the aforesaid First Appeal No.2833 of 2017 for hearing in due course.

11. The application is disposed of in the above terms.

(K.K.SONAWANE)
JUDGE