

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

**909 CIVIL APPLICATION NO.1473 OF 2013
IN FAST/25080/2012**

SUNITA BABRUWAN BIRAJDAR
VERSUS
THE STATE OF MAHARASHTRA AND ORS

...
Advocate for Applicant : Mr.S.N.Lale Yelwatkar
AGP for Respondents No.1 & 3 : Mr.Y.G.Gujrathi
Advocate for Respondent No.2 : Mr.Anil M. Gaikwad

...
WITH
CIVIL APPLICATION NO. 1472 OF 2013
IN FAST/25041/2012

BALASAHEB RAMRAO BIRAJDAR
VERSUS
THE STATE OF MAHARASHTRA AND ORS

...
Advocate for Applicant : Mr.B.K.Pawar
AGP for Respondents No.1 & 3 : Mr.Y.G.Gujrathi
Advocate for Respondent No.2 : Mr.Anil M. Gaikwad

...

CORAM : K.K.SONAWANE, J.

DATE: 7th January, 2020

PER COURT:-

1. Issue notice to the respondents. Learned AGP waives service of notice for respondents No.1 and 3. Mr.A.M.Gaikwad, learned counsel waives service of notice for respondent No.2.
2. Heard learned counsel for the parties.
3. Applicants moved the present applications seeking condonation of delay caused in filing first appeals against the impugned Judgment and award passed by the learned Civil Judge,

Senior Division, Omerga in LAR Nos.590 of 2009 and 588 of 2009, dated 28.02.2011.

4. Learned counsel for the applicants submitted that the agricultural lands of the applicants were acquired by the respondents for the purpose of Narangwadi Storage Tank. The Special Land Acquisition Officer (SLAO) has awarded less compensation amount in favour of applicants, therefore, they preferred reference before the Reference Court for enhancement in the compensation amount. But, the learned Reference Court also did not appreciate the factual aspects on record and failed to award the appropriate compensation of the said lands. The applicants are intending to file first appeals against the impugned Judgment and award passed by the Reference Court, but delay of 445 days is caused in filing the appeals. According to the learned counsel, the delay caused is not intentional and deliberate, but caused due to unavoidable circumstances and financial crises of the applicants-claimants. He requested to condone the delay caused in filing the appeals, in the interest of justice.

5. Learned AGP for respondent-State as well as learned counsel for respondent-Acquiring Body opposed the applications and submits that huge delay of 445 days cannot be condoned for lack of satisfactory reasons. The applicants did not take proper precaution to file the appeals within stipulated period.

6. Having given anxious consideration to the arguments advanced on behalf of both sides and for the reasons mentioned in the applications, I do not find any impediment to condone the delay in the interest of justice. The matter pertains to determination of appropriate market value of the acquired lands of the applicants-claimants. The applicants are not satisfied with the amount of

compensation awarded by the SLAO as well as by the Reference Court. In the circumstances, reasonable opportunity is essential to be given to the applicants to ventilate their grievance before the appellate forum for redressal. It is rule of law that liberal and pragmatic approach is essential to be adopted by avoiding pedantic approach while dealing with the application for condonation of delay.

7. During the course of argument, learned AGP for respondent-State and learned counsel for respondent-Acquiring Body submit that in case the delay is condoned by this Court then the applicants-claimants may not be allowed to claim interest on the enhanced amount of compensation for the period of delay caused in filing the appeals. The learned counsel for the applicants-claimants fairly conceded for the same and submit that the applicants-claimants will not claim the interest and other statutory benefits for the period of delay caused in filing the appeals. In such circumstances, the applications deserve to be allowed.

8. Accordingly, both the applications stand allowed. The delay caused in filing the appeals is hereby condoned, subject to condition that the applicants-claimants shall not claim interest and other statutory benefits as laid down in the Land Acquisition Act, 1894 for the delayed period, in case any enhanced compensation is awarded by this Court after adjudication of appeals on merit.

9. Pursuant to aforesaid waiver of statutory claim, the applicants-appellants shall furnish undertakings to that effect and place it on record of the appeals to enable this Court to take note of the same while decision of the appeals on merit. Registry to take requisite steps for further process.

10. With the aforesaid observations, the applications stand disposed of.

11. On registration of appeals, issue notice to the respondents. Learned AGP waives service of notice for the respondents No.1 and 3. Mr.A.M.Gaikwad, learned counsel waives service of notice for respondent No.2.

12. List the appeals for hearing in due course.

(K.K.SONAWANE)
JUDGE

SPT