

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

**927 CIVIL APPLICATION NO. 14256 OF 2018
IN FAST/27602/2018**

THE EXECUTIVE ENGINEER, MINOR IRRIGATION DIVISION, JALNA
VERSUS
NANDABAI TRIMBAK NIHAL ANR ORS.

Advocate for Applicant : Mr.H.B.Nandgavale h/f. Mr.Sham B. Patil
AGP for Respondents No.2 & 3 : Mr.R.B.Bagul
Advocate for Respondent No.1 : Mr.Ramchandra J. Nirmal

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

PER COURT:-

1. Heard learned counsel for the applicant, learned counsel for respondent No.1 and learned AGP for respondents No.2 and 3
2. The applicant-Acquiring Body moved the present application seeking condonation of 283 days delay caused in filing the first appeal against the impugned Judgment and award passed by the learned Civil Judge, Senior Division, Jalna in LAR No.252 of 2014. According to the 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. It is submitted that the delay caused is not intentional and deliberate, but caused due to compliance of official process. Matter pertains to public fund. The learned Reference Court has granted exorbitant amount of compensation. Therefore, in the interest of justice, delay caused in filing the first appeal is required to be condoned.
3. Learned counsel for respondent No.1-original claimant opposed the application and submits that there is inordinate delay, which has not been explained in proper manner. Therefore, the same cannot be condoned and prayed for rejection of application.

4. The learned AGP for respondents No.2 and 3 fairly conceded to pass the suitable order in the interest of justice.

5. I have given anxious consideration to the submissions advanced on behalf of learned counsel for the parties. In view of attending circumstances on record and for the reasons mentioned in the application, there is no impediment to condone the delay for substantial justice into the matter. It is the rule of law that liberal and pragmatic approach is required to be adopted by avoiding pedantic approach while dealing with application for condonation 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-claimant. In contrast, it would sub-serve the purpose of substantial justice. Hence, application for condonation of delay deserves to be allowed.

6. Accordingly, application stands allowed in terms of prayer clause-'B". Delay caused in filing the first appeal against the impugned Judgment and award passed by the Reference Court in LAR No.252 of 2014, is hereby condoned. Registry to take requisite steps for registration of appeal. Civil application stands disposed of accordingly.

7. On registration of appeal, issue notice to the respondents. Mr.R.J.Nirmal, learned counsel waives service of notice for respondent No.1-original claimant. Learned AGP waives service of notice for respondents No.2 and 3.

8. Meanwhile, call for Record and Proceeding from the concerned Reference Court.

9. List the appeal for admission in due course.

(K.K.SONAWANE)
JUDGE

SPT