

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

927 CIVIL APPLICATION NO. 13092 OF 2019
IN FAST/27956/2019

MANGALABAI RAMKRISHNA BHAGWAT
VERSUS
THE SPECIAL LAND ACQUISITION OFFICER, MINOR IRRIGATION
JALGAON AND ANR

...
Advocate for Applicant : Mrs. Kirti A. Deshpande h/f
Mr. Madhav M. Bhokarikar
AGP for Respondent No. 1 : Mr. R.B. Bagul

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

DATED : 9th JANUARY, 2020.

ORDER :-

1. Heard learned counsel for appearing parties. Despite service of notice, no appearance is caused on behalf of respondent No. 2- Acquiring Body.
2. Perused the applications and relevant documents produced on record. It has been submitted on behalf of the applicant that delay caused in filing the appeal is not intentional or deliberate but it caused due to unavoidable circumstances as well financial crises for filing the present appeal. The learned counsel further added that applicants - appellant will not claim statutory benefits as well as amount of interest as laid down in the Land Acquisition Act, 1894, for the period of delay sought to be condoned, in case of success of appeal on merit. Hence, learned counsel for applicants prayed for condonation of delay.
3. The learned AGP for respondent No. 1 – State submits that there is inordinate delay, which has not been explained satisfactorily, therefore, the same cannot be condoned and prayed for rejection of application.
4. Perused the application and relevant documents on record. Admittedly, the matters pertain to enhancement of compensation for

the land under acquisition. The learned Reference Court partly allowed the Reference Petition filed by the applicant under section 18 of the Land Acquisition Act, 1894. The applicant intends to challenge the findings for awarding meagre compensation amount and also intends to seek enhancement of compensation.

5. In view of the aforesaid submissions and for the reasons mentioned in the application that the delay so caused in filing the appeal was only due to unavoidable circumstances as well financial crises, I find it justifiable to give reasonable opportunity to the applicant-appellant in the interest of justice to ventilate grievances before the Appellate Forum. There is sufficient cause to allow the applications for condonation of delay. In addition, the applicant-claimant has shown his willingness / inclination that he will not claim statutory benefits as well as amount of interest as mentioned above. In such circumstances, by imposing aforesaid fetter of waiver of statutory benefits and interest amount etc. on the part of applicant-appellant, there would not be any impediment to condone the delay. 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. The application for condonation of delay required to be allowed.

6. In sequel, application is allowed in terms of prayer clause "B". The delay caused to present the appeal against the impugned Judgment and Award stands condoned subject to condition that applicant-appellant shall not claim statutory benefits as well as amount of interest as laid down in the Land Acquisition Act, 1894 for the delayed period allowed to be condoned, in case, any enhanced compensation is awarded by this Court after adjudication of appeal on merit.

7. Pursuant to aforesaid waiver of statutory claim, the applicant-appellant shall furnish undertakings to that effect and place it on record of the appeal to enable this Court to take note of the same, while decision of the appeal on merit. Registry to take requisite steps for

further process.

8. The civil application is allowed in aforesaid terms and stand disposed of.

9. On registration of appeal, issue notice to the respondents, returnable on 13-02-2020. Learned AGP waives service of notice for respondent No. 1.

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

11. After compliance of procedural formalities, list the appeal for further process on 13-02-2020.

[K. K. SONAWANE]
JUDGE

MTK