

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

**59 CIVIL APPLICATION NO.11753 OF 2019
IN FAST/30123/2019**

THE EX. ENGINEER, WAGHUR DAM DIVISION, JALGAON AND ORS
VERSUS
KADU JANGALE BORSE (DECEASED) THR.LRS.SHIVAJI AND ORS.

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Advocate for Applicant-Acquiring Body : Mr.Suresh D. Dhongade
AGP for Applicants-State Authorities : Mr.S.N.Morampalle
Advocate for Respondent No.2 : Mr.V.B.Patil

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CORAM : K.K.SONAWANE, J.

DATE: 17th February, 2020

PER COURT:-

1. Heard learned counsel for the applicant-Acquiring Body and learned AGP for the applicants-State Authorities as well as learned counsel for respondent No.2.
2. Applicants moved the present application for condonation of 8 days' delay caused in filing the first appeal against impugned Judgment and Award passed by the learned Reference Court in Land Acquisition Reference 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. After procuring the funds for court fees appeal came to be filed, however, there is meager delay in filing the appeal. According to learned counsel for applicant-Acquiring Body, delay so caused is not intentional or deliberate, but caused due to compliance of official process.
3. Learned counsel for respondent No.2 submits that the delay has not been explained satisfactorily. The learned Reference Court has correctly appreciated evidence on record and awarded reasonable market value for the acquired land. Therefore, delay may not be condoned.

4. I have given anxious consideration to the submissions advanced on behalf of learned counsel appearing for the parties. Considering the meager delay, nature of the subject-matter and reasons mentioned in the application, I do not find any impediment to allow the application 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 appeal by condoning the delay. It would not cause any prejudice or injustice to the respondents.* In contrast, it would sub-serve the purpose of substantial justice. Hence, the application for condonation of delay deserves 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.

5. On registration of appeal, issue notice of admission of appeal to the respondents, returnable on 23.03.2020. Mr.V.B.Patil, learned counsel waives service of notice for respondent No.2.

6. Meanwhile, call for record and proceeding from the concerned learned Reference Court.

7. After compliance of procedural formalities, list the appeal for further process on 23.03.2020.

**(K.K.SONAWANE)
JUDGE**

SPT