

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

CIVIL APPLICATION NO.209 OF 2019 IN FAST/30907/2018

EX. ENGINEER, LATUR MINOR IRRIGATION DIVISION, LATUR UNDER
G.M.I.D.C., AURANGABAD AND OTHERS

VERSUS

HABIB SALAH HABIB ABDUL KADAR CHAUS AND ANR

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Advocate for Applicant No.1 : Mr. B. R. Surwase

AGP for Applicants No.2 and 3 : Mr. R. B. Bagul

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CORAM : K.K. SONAWANE, J.

DATED : 20th JANUARY, 2020.

ORDER :-

Heard learned counsel for the applicant No.1-Acquiring Body and learned AGP for applicants No.2 and 3. Despite service of notice, no one else appeared on behalf of respondents-claimants. Perused the application and other relevant documents produced on record.

2. The applicant No. 1 - Acquiring Body moved present application for condonation of delay in filing first appeal against the impugned Judgment and Award passed by the learned Reference Court in Land Acquisition Reference No. 238 of 2011, dated 26-07-2012, 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 learned Reference Court is erroneous, illegal and is not as per the provisions of Land Acquisition Act, 1894. Applicant No. 1 is Body corporate having its independent entity. After procuring the funds for court fees, appeal came to be filed, however, there is 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. Learned counsel for applicant Acquiring Body submits that the original claimants also preferred proceeding bearing First Appeal No. 813 of 2014. The said proceeding was admitted and listed for final hearing on merit. In such circumstances, delay can be condoned for registration of proceeding of appeal filed by the Acquiring Body and same be tagged with the appeal filed by claimants for simultaneous hearing in the interest of justice.

3. Learned AGP for applicants No. 2 and 3 submits that suitable orders may be passed.

4. I have given anxious consideration to the submissions advanced on behalf of applicant-Acquiring Body. Considering the 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 an 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 Civil 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 to the respondents-original claimants.

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

7. After compliance of procedural formalities, first appeal be tagged with connected proceeding bearing FA No. 813 of 2014 and list the same for admission or with the consent of both sides for simultaneous hearing of appeal on merit at the stage of admission, in due course.

Sd./-

[K. K. SONAWANE]
JUDGE