

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

CIVIL APPLICATION NO.1166 OF 2018 IN FAST/32306/2017

EXECUTIVE ENGINEER, VISHNUPURI PROJECT DIV. NO. 1 NANDED
NOW LENDI PROJECT DIV. DEGLOR AND ORS
VERSUS
BHARAT LAXMANRAO KULKARNI AND ORS

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Advocate for Applicant No.1 : Mr. B. R. Surwase
AGP for Applicants No. 2 and 3 : Mr. R. B. Bagul
Advocate for Respondents No.1 to 6 : Mr. Sunil V. Kurundkar

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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 counsel for respondents No.1 to 6 (original claimants) and learned AGP for applicants No.2 and 3. 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. 83 of 2007, dated 01-09-2008, filed under section 18 of the Land Acquisition Act, 1894. According to learned counsel for 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. 2027 of 2015. 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. Learned counsel for respondents-original claimants raised objections that the inordinate and huge delay caused for filing first appeal has not been properly explained by the applicant-Acquiring Body. He requested to reject the application.

5. I have given anxious consideration to the submissions advanced on behalf of learned counsel appearing for both sides. Considering the nature of 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.

6. On registration of appeal, issue notice to the respondents-original claimants. Mr. S. V. Kurundkar, learned counsel waives service of notice for respondents-claimants.

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

8. After compliance of procedural formalities, first appeal be tagged with connected proceeding bearing FA No. 2027 of 2015 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