

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

**938 CIVIL APPLICATION NO.12910 OF 2018
IN FAST/31718/2018**

THE EX. ENGINEER, BEED IRRIGATION DIVISION, THR G.M.I.D.C.,
AURANGABAD

VERSUS

UDDHAV PANDITRAO GHADGE AND ANR.

Advocate for Applicant : Mr.Sudhir G. Bhalerao
Advocate for Respondent No.1 : Mr.V.P.Latange h/f.
Mr.T.G. Gaikwad
AGP for Respondent No.2 : Mr.Y.G.Gujrathi

CORAM : K.K.SONAWANE, J.

DATE: 30th January, 2020

PER COURT:-

1. Heard learned counsel for the applicant-Acquiring Body and learned counsel for respondent-claimant as well as learned AGP for the respondent-State of Maharashtra. Perused the application and relevant documents produced on record.

2. Applicant-Acquiring Body moved the present application for condonation of delay 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 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. Applicant 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 the applicant, delay so caused is not intentional or deliberate, but caused due to compliance of official process.

3. Learned counsel appearing for respondent-claimant raised objections and submits that 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 of both the learned counsel. 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 respondent.* 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. Mr.V.P.Latange h/f. Mr.T.G.Gaikwad, learned counsel waives service of notice for respondent No.1. Learned AGP waives service of notice for respondent No.2.

6. After compliance of procedural formalities, list the appeal for further process alongwith other connected appeals on 06.02.2020.

(K.K.SONAWANE)
JUDGE

SPT