

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

CIVIL APPLICATION NO.13262 OF 2019 IN FAST/34943/2019

THE EX. ENGINEER, MINOR IRRIGATION DIVISION, JALGAON AND ANR
VERSUS
LAXMIBAI BABU BARI AND ORS

...
Advocate for Applicants : Mr. Subhash S. Chillarge
AGP for Respondents No.4 and 5 : Mr. Y. G. Gujrathi
...

CORAM : K.K. SONAWANE, J.

DATED : 28th JANUARY, 2020.

ORDER :-

Heard learned counsel for the applicants – Acquiring Body and learned AGP for respondents No.4 and 5. Despite service of notice, no one else appeared on behalf of respondents No. 1 to 3 (original claimants). Perused the application and other relevant documents produced on record.

2. The applicants - Acquiring Body moved present application for condonation of delay of 176 days caused in filing the first appeal against impugned Judgment and Award passed by the learned 3rd Joint Civil Judge, Senior Division, Jalgaon, in Land Acquisition Reference No. 243 of 2010, dated 18-02-2019, filed under section 18 of the Land Acquisition Act, 1894. According to learned counsel for the applicants-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 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 applicants-Acquiring Body, delay so caused is not intentional or deliberate, but, caused due to compliance of official process.

3. Learned AGP for respondents No. 4 and 5 submits that suitable orders may be passed.

4. As referred supra, despite service of notice, no one has caused appearance on behalf of respondents No.1 to 3 (original claimants), therefore, opportunity is not received for hearing to them. In view of the nature of subject matter, I proceed further to adjudicate the application for condonation of delay on merit in the interest of justice.

5. I have given anxious consideration to the submissions advanced on behalf of learned counsel for 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 deserve to be allowed. In sequel, the Civil Application stands allowed in terms of prayer clause (B). Delay of 176 days caused in filing first appeal against the impugned Judgment and Award is hereby condoned. Registry to take requisite steps for registration of appeal. Civil application is disposed of accordingly.

6. On registration of appeal, issue notice to the respondents, returnable on 11-03-2020. Learned AGP waives service of notice for respondents No. 4 and 5.

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

8. After compliance of procedural formalities, list the first appeal for admission and if possible for final hearing on merit at the stage of admission with consent of both the sides on 11-03-2020.

Sd./-
[K. K. SONAWANE]
JUDGE