

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

**911 CIVIL APPLICATION NO.6372 OF 2018
IN FAST/36765/2017
ABA KONDIBA BHANDWALKAR
VERSUS
THE STATE OF MAHARASHTRA AND ORS**

...

Advocate for the applicant: Mr. Abhijit S. More
AGP for Respondents 1 & 3 State: Mr S. N. Kendre

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 16th September, 2020

ORDER:

1. It is an application for condonation of delay, moved by the applicant/ claimant by taking aid of section 5 of the Limitation Act, 1963.
2. Heard Mr. Abhijit More, the learned Advocate for the applicant and the learned A.G.P. for the respondent Nos. 1 and 3. Respondent No.2 remained absent though served. Respondent No.2 is neither available in the Court hall where the video conferencing facility is provided nor available online.
3. Taking into consideration the nature of dispute and old pendency of the application, I thought it just and proper to decide the application on its own merits.
4. The learned A.G.P. for the respondents/State opposed to allow this application and submitted that no sufficient cause is assigned by the applicant for condonation of delay.
5. On perusing the record, it is found that there is delay of 467 days in preferring the appeal by the applicant/Claimant. The applicant has assigned the reasons for condonation of delay in his application at Paragraph No.2. The applicant could not prefer the appeal within time due to financial crises. The delay is neither deliberate nor intentional as

is appearing from the record. The reason assigned by the applicant appears to be genuine and sufficient.

6. In view of the observations of the Hon'ble Supreme Court in the case of **the Collector, Land Acquisition, Anantnag & another Vs. Mst. Katji and others, reported in AIR 1987 Supreme Court 1353**, refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this, when delay is condoned, the highest that can happen is that a cause would be decided on merits after hearing the parties. Making a justice oriented approach from this perspective, there is sufficient cause to condone the delay in the institution of the appeal.

7. Having regard to the above reasons and discussion, the delay stands condoned. The application for condonation of delay moved by the applicant is allowed.

8. The applicant shall furnish undertaking that he would not claim statutory benefits as well as amount of interest as laid down in the Land Acquisition Act, for the delayed period, in case, any enhanced compensation is awarded by this Court after adjudication of the appeal on merits.

9. The appeal be registered after due scrutiny.

10. Issue notice to the respondents in the appeal, returnable on 28th October, 2020. Learned AGP waives notice for the respondent Nos.1 and 3.

11. Call record and proceedings from the reference Court.

(SHRIKANT D. KULKARNI, J.)