

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

**43 CIVIL APPLICATION NO.13509 OF 2019
IN FAST/35652/2019
WITH CA/13510/2019 IN FAST/35652/2019**

THE EXECUTIVE ENGINEER, MINOR IRRIGATION DIVISION
JALGAON AND ANR
VERSUS
SHANTABAI TUKARAM SHELKE (DIED) THR. LRS. YASHODABAI
AND OTHERS

Advocate for Applicants : Mr.Ajay D. Pawar
AGP for Respondents No.2 & 3 : Mr.Y.G.Gujrathi

CORAM : K.K.SONAWANE, J.

DATE: 13th January, 2020

PER COURT:-

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

2. The 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 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 applicant, delay so caused is not intentional or deliberate, but caused due to compliance of official process.

3. As referred above, respondents-claimants No.1A to 1B(V) did not turn up to this Court even after service of notice. Therefore, no opportunity is received for hearing of the respondents No.1A to 1B(V) in this matter.

4. 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 subserve 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, returnable on 12.02.2020. Learned AGP waives service of notice for respondents No.2 and 3.

6. After compliance of procedural formalities, List the appeal alongwith Stay petition on 12.02.2020.

(K.K.SONAWANE)
JUDGE

SPT