

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

939 CIVIL APPLICATION NO.14031 OF 2018
IN FAST/22915/2018

ARJUN BHIMRAO LAHANE AND ANR
VERSUS
THE STATE OF MAHARASHTRA AND ORS

...
Advocate for Applicants : Mr. Kakade Deepak M.
AGP for Respondents/State : Mr. S.R. Yadav Lonikar
...

CORAM : Y.G. KHOBRADE, J.
DATE : 16th November, 2022

PC.:-

Heard advocate Mr. Kakade the learned counsel appearing for the applicants as well as learned AGP for the non-applicant nos.1 and 2. None appeared for non-applicant no.3.

2. The learned counsel appearing for the applicants vehemently canvassed that the applicants having no independent source of income and in the year 2008 the non-applicant no.3/Acquiring Body acquired land of the applicants, which was only source of income. Thereafter, the present applicants raised land reference before the competent Court. Accordingly, on conclusion of the trial on 09.01.2015, the learned trial Court passed the judgment and award and granted very meager amount of compensation to the

applicants. Therefore, the applicants wanted to challenge the said award with a prayer for enhancement of compensation. However, due to their poor financial condition they could not present appeal within stipulated period, therefore, the delay of 1209 days is caused while lodging the appeal which is *bona fide* and substantial. Hence prayed for condonation of delay.

3. Per contra the learned AGP strongly opposed the application on the ground that the financial condition of the applicants for lodging the appeal cannot said to be *bona fide* and substantial. Further there is huge delay while getting circulation of the matter and no any steps have been taken by the applicants to get circulation of the matter for the period of more than four years. Therefore, the applicants are not entitled for statutory benefits and interest for the delayed period as well as for the period which has been consumed for circulation of the matter. Hence submitted for passing suitable order.

4. On face of record, it appears that on 31.07.2018 the applicants have presented the application along with first appeal challenging the judgment and award dated 09.01.2015 passed by the learned Reference Court in LAR No.878/2010. It further appears that the matter was first time listed on 03.02.2022 before this Court and notice came to be issued to the non-applicants. Thereafter, the matter was never listed on board. Nonetheless,

the delay which has been caused while lodging the appeal does not appear to be intentional but taking into consideration that the litigants would not be deprived from receiving substantial justice on account of delay, therefore, the said delay is liable to be condoned. However, there is delay while circulating the matter, therefore, the applicants are not entitled for statutory benefits and interest for the delayed period. In view of above discussion, I am inclined to grant present application and proceed to pass the following order:

ORDER

- I) The Civil Application is hereby allowed.
- II) The delay of 1209 days caused in filing the appeal is hereby condoned. No order as to costs.
- III) The applicants shall not be entitled for the statutory benefits and interest for the delayed period.
- IV) Office is directed to register the first appeal and place it before the Court for further action.

[Y.G. KHOBRADE, J.]