

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

930 CIVIL APPLICATION NO.2397 OF 2018
IN FAST/27534/2017

UTTAM DAGADU PATIL (DECEASED) THR LRS RAOSAHEB AND ORS
VERSUS
THE STATE OF MAHARASHTRA AND ORS

...
Advocate for Applicants : Mr. Yenegure Apparao
AGP for Respondents/State : Mr. S.R. Yadav Lonikar
...

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

PC.:-

Heard Mr. Yenegure, the learned Advocate for the applicants and Mr. S.R. Yadav-Lonikar, learned AGP for the State.

2. Learned counsel for the applicants vehemently canvassed that, on 02.07.2012, the trial Court passed impugned judgment and award in Land Acquisition Reference No. 307/2004, however, due to poor financial condition, some time is consumed in collecting necessary documents and to arrange required amount for payment of Court fees and therefore delay of 1779 days caused in filing the appeal, which is *bona fide* and substantial. Hence, prayed for condonation of the same.

3. The learned AGP has not disputed about the fact of passing of the

judgment and award on 02.07.2012, however, he submitted that the applicants have not explained the delay properly and hence, prayed for rejection of the applications.

4. It is well settled principle of law that the litigant should not suffer for receiving substantial justice on technical ground and the Court should be liberal while condoning the delay, if proper and substantial explanation is given. In the case in hand, it appears that on 02.07.2012, the Reference Court passed impugned judgment and award under Section 18 of the Land Acquisition Act and the applicants have obtained certified copy of the same on 20.01.2017. However, due to their poor financial condition and as some time is consumed in collecting documents, delay of 1779 days is caused. Therefore, in the interest of justice it would be just and proper to condone the delay caused in filing the appeal.

5. Since the applicants claim for enhancement of compensation and there is delay of 1779 days caused in filing the appeals, so also, though the applicants filed present civil application along-with first appeal in the year 2017, but again for five years, the applicants did not bother to circulate the matter. Hence to my mind the applicants will not be entitled for the interest and statutory benefits for the delayed period, so also for the period which has been consumed in circulating the matter till date. Accordingly, I proceed to

pass the following order:-

ORDER:

- I) Civil Application is hereby allowed.
- II) The delay of 1779 days caused in filing appeal is hereby condoned.
- III) The applicants will not be entitled for interest and statutory benefits for the delayed period as well as till date of passing of this order.
- IV) Office is directed to register the first appeal and place it before the Court for further action.

[Y.G. KHOBRAGADE, J.]