

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 12303 OF 2024

IN

FIRST APPEAL (ST) NO. 16125 OF 2024

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Kalpana Bhagesh Sawardekar & Ors

...Applicants/
Appellants

Versus

Collector, Mumbai West Suburban & Ors

...Respondents

Mr. Anoshak Daver, i/b Nikhil Mengde, Rahul Lathi, Sahil Salunke, Burjis Doctor, for the Applicants/Appellants.

Mr. Girish Godbole, Senior Counsel, i/b Vidya Vyavahare & Pallavi Khale, for Respondent-BMC.

**CORAM : B. P. COLABAWALLA &
SOMASEKHAR SUNDARESAN, JJ.**

DATE : DECEMBER 17, 2024

PC :

1. The above Interim Application is filed seeking a Condonation of Delay of 58 days in filing the above First Appeal. The First Appeal assails the order passed by the Reference Authority under Section 69 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short "the 2013 Act").

2. Mr. Daver, the learned Counsel appearing on behalf of the Applicant-Appellant submitted that under Section 74(1) of the 2013 Act,

the Applicant-Appellant, being aggrieved by the award passed by the Reference Authority under Section 69, is allowed to file an Appeal to the High Court within 60 days from the date of the award. He submitted that the proviso to Section 74(1) further stipulates that if the Court is satisfied that the Appellant was prevented by sufficient cause from filing the Appeal within the initial period of 60 days, he may be allowed to file the Appeal within a further period not exceeding 60 days. He submitted that in the present case, the award was passed by the Reference Authority on 13th February, 2024 and was received by the Applicant-Appellant on the very same date. The present Appeal has been filed on 11th June, 2024. He, therefore, submitted that the total period from 13th February, 2024 is a period of 118 days. If one was to deduct the initial period of 60 days as stipulated in Section 74(1), there is a delay of 58 days in filing the above Appeal and which is within the period stipulated under the proviso to Section 74(1). He therefore submitted that since sufficient cause is shown by the Appellant, the delay be condoned.

3. Mr. Godbole, learned Senior Counsel appearing on behalf of Respondent Nos.4 and 5 whilst accepting that there is a delay of 58 days, leaves it to the Court's discretion to condone the delay. He, in fact, submitted that the Court has the power to condone the delay even beyond the period of 60 days prescribed in the proviso to Section 74(1).

We have not gone into this issue at all since it does not arise for consideration in the present case.

4. Having heard Mr. Daver, the learned Counsel appearing on behalf of the Applicant-Appellant, and Mr. Godbole, the learned Senior Counsel appearing on behalf of the Municipal Corporation (Respondent Nos.4 and 5), we are satisfied that the explanation given in the Interim Application for the delay of 58 days in filing the above Appeal. In these circumstances, the delay is hereby condoned.

5. Now that the delay is condoned, the Advocates for the Applicant-Appellant shall remove all other office objections, if any, within a period of four weeks from today, failing which the above Appeal shall stand dismissed without further reference to the Court.

6. The above Interim Application is accordingly disposed of. However, there shall be no order as to costs.

7. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[SOMASEKHAR SUNDARESAN, J.]

[B. P. COLABAWALLA, J.]