

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

928 CIVIL APPLICATION NO.1855 OF 2018
IN FAST/1521/2018

KARBHARI KADUBA AKHARE
VERSUS
THE STATE OF MAHARASHTRA AND ORS

...
Advocate for Applicant : D.m. Pingale
AGP for Respondents: Mr. S.N. Morampalle.

CORAM : K.K. SONAWANE, J.

DATE : 11th FEBRUARY, 2020.

PER COURT:

Learned counsel Smt. Shelke appearing for respondent Acquiring Body submits that she has received V.P. from the concerned Acquiring Body and it would be filed during the course of day.

2. Heard the learned counsel appearing for both the parties.

3. Perused the application and other relevant documents produced on record. The learned counsel for the applicants-claimants submits that the delay caused in filing the appeals is not intentional or deliberate, but, same is caused due to unavoidable circumstances as well as financial crisis. The learned counsel for applicant-claimant further submits that the applicants will not claim statutory benefits as well as amount of interest as laid down in the Land Acquisition Act, 1894, for the period of delay sought to be condoned, in case of success of appeal on merit. Hence, the learned counsel for the applicant-claimant prayed for condonation of delay.

4. The learned AGP and learned counsel for respondent No.3 opposed the application on the ground that there is inordinate delay and same has not been properly explained. Therefore, they requested for rejection of application.

5. Considering the fact that the applicant is a rustic and illiterate

person having no knowledge about the legal procedure as well as he had a financial crisis, I find it justifiable to give reasonable opportunity to the applicants-appellants in the interest of justice to ventilate the grievances before the Appellate Forum. There is no impediment to condone the delay. There is sufficient cause to allow the applications for condonation of delay. In addition, the applicants/claimants have shown their willingness/inclination that they will not claim statutory benefits as mentioned above. In such circumstances, by imposing aforesaid fetter of waiver of statutory benefits on the part of applicants-appellants, there would not be any impediment to condone the delay. The application for condonation of delay deserves to be allowed.

6. In sequel, application stands allowed. The delay caused to present the appeal against the impugned Award stands condoned subject to condition that applicants-appellants shall not claim statutory benefits as well as amount of interest as laid down in the Land Acquisition Act, 1894 for the delayed period allowed to be condoned, in case, any enhanced compensation is awarded by this Court after adjudication of appeal on merit.

7. Pursuant to aforesaid waiver of statutory claim, the applicants-appellants shall furnish undertaking to that effect and place it on record of the appeal to enable this Court to take note of the same, while decision of the appeal on merit. Registry to take requisite steps for further process.

8. The civil application is allowed in aforesaid terms and stands disposed of.

9. On registration of appeals, issue notice to respondents. Learned AGP waives notice for respondent Nos. 1 and 2. Smt. Shalke, Adv. Waives notice for respondent No.3.

10. Meanwhile, call R. & P. from the concerned Reference Court.

11. After compliance of procedural formalities, list the appeal for admission in due course.

[K.K. SONAWANE]
JUDGE.

Grt/-.