

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.1059 OF 2015
IN
FIRST APPEAL (ST) NO.5833 OF 2015
WITH
CIVIL APPLICATION NO.1060 OF 2015
WITH
FIRST APPEAL (ST) NO.5833 OF 2015**

The State of Maharashtra and Ors. .. Applicants

vs.

Manisha Vijay Mungase and Ors. .. Respondents

Mr.A.R.Patil, A.G.P. for the applicant

**CORAM : K.K.TATED, J.
DATED : 22/07/2015**

PC:

1 Heard the learned A.G.P. for the applicant.

2 None for the respondents though duly served.

3 This application is preferred by State of Maharashtra for condonation of 2 years 14 days delay in filing First Appeal challenging the award dated 7.11.2012 passed by MACT, Malshiras in MACP No.1 of 2011.

4 The learned A.G.P. for the applicant submits that before filing the First Appeal on behalf of State of Maharashtra they have to take approval from several departments. He submits that in the present

proceeding the matter was pending in the Office of Assistant Engineer, Grade-I, P.W. Sub-Division, Indapur, District Pune. Hence, there was a delay in filing First Appeal.

5 In support of this contention the learned A.G.P for the applicant relies on paragraph 2 and 3 of the Civil Application. He submits that in both these paragraphs applicant has explained movement of file from one department to other department. He submits that they have good chance of success in the present proceeding. He submits that the Tribunal has awarded compensation in favour of respondent claimant on the higher side. He submits that if delay is not condoned, irreparable loss, harm and injury will be caused to the Applicant. He submits that in the interest of justice, this Hon'ble Court be pleased to condone the delay in filing First Appeal.

6 I have heard the learned A.G.P for the applicant.

7 Before deciding this Civil Application, it is to be noted the law laid down by our High Court and Apex Court on the point of condonation of delay. Our High Court in the matter of **Laxman Divekar Vs. State of Maharashtra 1998 (1) Mh.L.J 745** held that Court has no power to arbitrarily condone the delay in the name of advancing substantial justice just because the applicant happen to be a Corporation.

8 The Apex Court in the matter of **Damodar Pillai Vs. South Indian Bank Ltd, 2005(5) All.M.R. 961 (SC)** held that hardship or injustice is not a ground for extending the period of limitation.

9 Our High Court in the matter of **Special Land Acquisition Officer & Anr. Vs Jose Prezares De Piedade Pinto, 2006(2) Bom.C.R 773** held that delay caused due to movement of file from one table to another cannot be a reason for condonation of delay.

10 The Apex Court in the matter of **Pundlik Jalam Patil Vs. Ex.Engg. Jalgaon Medium Project and Ors, 2008(6) BCR 513** held that unless and until sufficient cause is shown, inordinate delay should not be condoned.

11 The Apex Court in the matter of **Commissioner, Nagar Parishad, Bhilwara Vs. Labour Court, Bhilwara & Anr, 2009(3) SCC pg 525** held that while dismissing an Appeal on the ground of limitation, going into the merits of the case is not proper.

12 The Apex Court in the matter of **Oriental Aroma Chemical Industries Limited Vs. Gujarat Industrial Development Corporation reported in 2010 (5) SCC 459**, held that in the absence of sufficient cause, Court should not condone the delay.

13 The Apex Court in the matter of **Maniben Devraj Shah Vs. Municipal Corporation of Brihan, Mumbai reported in 2012 (5) SCC 157**, held that no premium be given for total lethargy or utter negligence of State officers/machinery/agency/ instrumentality and condonation of delay caused by such officer cannot be allowed as a matter of course by accepting the plea that dismissal on the ground of limitation will caused injury to public interest.

14 The Apex Court in the case of **B. Madhuri Gaud Vs. B. Damodar**

Reddy, 2012 (12) SCC 693 held that if sufficient cause is not shown, delay should not be condoned.

15 The Apex Court in the matter of Esha Bhattacharjee Vs. Managing Committee of **Raghunathpur Nafar Academy 2013(12) S.C 450** held that if sufficient cause is not shown, application for condonation of delay be rejected.

16 Bare reading of the Civil Application shows that reason for condonation of delay is movement of file from one department to other department for taking decision. Hence, there is a delay of more than 2 years.

17 Considering the submissions made by the learned A.G.P for the Applicant, the averments made in paragraph 2 and 3 of the Civil Application and the law laid down by Apex Court and our Court, I am of the opinion that the applicant has not made out a case for condonation of inordinate delay of more than 2 years in filing the First Appeal. Hence, following order:

- a) Civil Application stands rejected.
- b) In view thereof, registration of First Appeal stands rejected.
- c) Civil Application No.1060 of 2015 for stay is dismissed as infructuous.

(K.K.TATED, J.)