

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

**CIVIL APPLICATION NO.465 OF 2014
IN
FIRST APPEAL (ST) NO.29165 OF 2013
WITH
CIVIL APPLICATION NO.491 OF 2014
IN
FIRST APPEAL (ST) NO.29166 OF 2013**

The Executive Engineer
Palkhed Dam Division, Nasik

.. Applicant

vs.

The State of Maharashtra and Ors.

.. Respondents

Ms.Bhavana Khemani for the applicant

Mr.A.R.Patil, A.G.P. for the respondent no.1

Mrs.Kinnari Hingole h/f Mr.Sandip Shinde for respondent no.2 in
First Appeal (ST). No.29166 of 2013

**CORAM : K.K.TATED, J.
DATED : 29TH JANUARY, 2015**

PC:

1 Heard the learned counsel for the applicant and learned
A.G.P. for the respondent no.1.

2 Though other respondents are duly served, no one
appeared on behalf of them when the matters were called out.

3 These applications are preferred by acquiring body for condonation of 512 days delay in filing First Appeal challenging the common judgment and award dated 13.01.2011 passed by Reference Court in LAR No.22 of 2006 and 23 of 2006.

4 The learned counsel for the applicant submits that before filing First Appeal, they have to take approval from several departments. Hence, there is a delay in preferring the present First Appeal. Counsel for applicant relies on paragraph 8 of the Civil Application. In support of her contention she further submits that the Reference Court awarded compensation on their side. She submits that if delay is not condoned, irreparable loss and injury will be caused to them. She submits that applicant has good chance of success in the present matter.

5 On the other hand the learned counsel for the respondent no.2 in Civil Application No.491 of 2014 vehemently opposed the present Civil Application. He submits that applicant has not shown sufficient cause for condonation of inordinate delay of 512 days in filing First Appeal. He submits that for want of disclosure of sufficient cause in Civil Application, this court be pleased to dismiss the present Civil Application .

6 I have heard both the sides at length. Considering the submissions made by the learned counsel for the Applicant, averments made in the Application and the reasons disclosed in paragraph 8 of the Civil Application, I am satisfied that the Applicant

has made out a case for allowing the present Civil Application.

7 It is to be noted that the Apex Court in the matter of ***N.Balkrishnan Vs. M. Krishnamurthy (1998) 7 SCC 123*** held that the object of fixing the time limit is not meant to destroy the rights. The law of limitation fixes a lifespan for such legal remedy for the general welfare. Paragraph Nos.11, 12 and 13 of the said judgment read thus :

11. Rules of limitation are not meant to destroy the right of parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury. Law of limitation fixes a life-span for such legal remedy for the redress of the legal injury so suffered. Time is precious and the wasted time would never revisit. During efflux of time newer causes would sprout up necessitating newer persons to seek legal remedy by approaching the courts. So a life span must be fixed for each remedy. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. Law of limitation is thus founded on public policy. It is enshrined in the maxim Interest reipublicae up sit finis litium (it is for the general welfare that a period be put to litigation). Rules of limitation are not meant to destroy the right of the parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time.

12. A Court knows that refusal to condone delay would result in foreclosing a suitor from putting forth his cause. There is no presumption that delay in approaching the court is always deliberate. This Court has held that the words "sufficient cause" Under Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice vide Shakuntala Devi Jain v. Kuntal Kumari, 1969 SC 575 and State of West Bengal v. The Administrator, Howrah Municipality, AIR 1972 SC 749.

13. It must be remembered that in every case of delay there can be some lapse on the part of the litigant concerned. That alone is not enough to turn down his plea and to shut the door against him. If the explanation does not smack of mala fides or it is not put forth as part of a dilatory strategy the court must show utmost consideration to the suitor. But when there is reasonable ground to think that the delay was occasioned by the party deliberately to gain time then the court should lean against acceptance of the explanation. While condoning delay the Court should not forget the opposite party altogether. It must be borne in mind that he is a loser and he too would have incurred quite a large litigation expenses. It would be a salutary guideline that when courts condone the delay due to laches on the part of the applicant the court shall compensate the opposite party for his loss.”

8 Hence, following order:

- a) Delay in filing First Appeal in both the matters is condoned.
- b) Both the Civil Applications are disposed of accordingly.

(K.K.TATED, J.)