

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1) CA NO.1752 OF 2012

**3 CIVIL APPLICATION NO. 1752 OF 2012
IN FAST/677/2012 WITH CA/1753/2012 IN
FAST/677/2012**

THE STATE OF MAHARASHTRA THR. COLLECTOR BEED
AND ANR
VERSUS
GORAKH ANANDA TARTE AND ANR

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AGP for Applicants : Mr.A.M.Phule

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CORAM : P.R. BORA, J.
Dated: August 26, 2016

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PER COURT :-

1. Heard Shri Phule, learned A.G.P. appearing for the appellant State. Respondents though are duly served, have not entered their appearance in the matter.

2. Delay of 1910 days has occurred in filing the appeal by the State against the judgment and order passed by the Reference Court in LAR No.202/2004. The impugned judgment and award was passed on 28th of March, 2006. As per the averments in the present application, the applicant had applied for certified copy on the next day i.e. on 29th March, 2006, and the certified copy was collected on 28th July, 2006. The averments in the application further reveal that the proposal was forwarded to the Law and Judiciary Department seeking sanction for filing the appeal and accordingly the said

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sanction was received from the Law and Judiciary Department on 16th October, 2006. It is further contended that the Government Pleader assigned the First Appeal to the concerned Assistant Government Pleader on 17th October, 2006. It is further averred that the learned A.G.P., after going through the file drafted the appeal. It is further contended that the different charts to be filed along the appeal were received in July 2011, and the amount of Court fees was received on 12.8.2011 and for the aforesaid reasons, the delay has been caused in filing the appeal.

3. After having perused the contents of the aforesaid application, it is apparently revealed that there is absolutely no explanation of the period of delay from 17.10.2006 to 12.8.2011 i.e. the period of about five years as to why such huge period was spent and for what purpose. 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 officer / 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 cause injury to

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public interest.

4. The present matter also appears to be a case of gross negligence and total lethargy on the part of the State machinery. In absence of proper justification for a period of more than five years, I am not inclined to allow the present application. Hence, the following order:

ORDER

1) The Civil Application is rejected. Consequently, the Appeal on Stamp Number is also dismissed. Pending Civil Applications, if any, stand, disposed of.

(P.R. BORA, J.)

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