

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
206 CIVIL APPLICATION NO.1701 OF 2016
IN
FIRST APPEAL NO.633 OF 2001

GURAPPA SANGAPPA RODAGE SINCE DECEASED
THROUGH LRS GANGABAI AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA

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Mr.A.D.Somani, Advocate h/f Mr. V.G.Sakolkar, Advocate for respondent
Mr. R.B. BAGUL, AGP for Applicant / State

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CORAM : P.R. BORA, J.
Dated : April 04, 2016

PER COURT :-

1) This is an application for bringing the legal representative of the deceased appellant on record, and for condonation of delay which has occasioned in filing the said application.

2) The learned Counsel appearing for the applicants submitted that, the present applicants were not aware of the present proceeding. The applicants became aware about pendency of such a proceeding only after they received the intimation from the Lawyer of their deceased father that, the appeal preferred by their father against the land acquisition award is pending. Learned Counsel submitted that, the Lawyer has intimated the present applicant about the final hearing of the present appeal fixed by the Court on 19.01.2016. In the circumstances, according to the Counsel, though the delay of 1814 days appears to occurred in filing the application, in fact, from the date of knowledge of the present applicants, they have immediately taken all prompt steps and as such, without any delay they have filed the present application. Learned Counsel submitted that, the present applicants need to be given an opportunity to contest the appeal on merits.

3) Issue notice to the respondent. Learned AGP waives notice.

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4) The learned AGP has objected for condoning the delay stating that, the reasons put forth by the applicants that, they were not aware of the present appeal cannot be accepted and are not just and sufficient to condone the delay. Learned Counsel submitted that, huge delay occurred, has not been properly explained by the present applicants.

5) After having considered the submissions advanced on behalf of the learned Counsel for the respective parties, I do not see any reason to disbelieve the averments made by the applicant in the present application that, they came to know about the present appeal only when they received the communication from the Lawyer, whereby it was intimated that, the hearing of the present appeal was fixed on 19.01.2016. The delay caused does not appear to be intentional. In such circumstances, I am inclined to allow the present application. Hence, the following order:

ORDER

- a) The application is allowed.
 - b) The delay occurred in filing the present application is condoned.
 - c) The applicants be taken on record as legal representatives of the deceased appellant. Amendment to be carried out forthwith.
- 6) Civil Application stands disposed of.

(P.R. BORA, J.)