

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1)

CA NO.4511/2014

**17 CIVIL APPLICATION NO. 4511 OF 2014
IN
FAST/5196/2014
WITH
CA/4512/2014 IN FAST/5196/2014**

THE STATE OF MAHARASHTRA AND ANOTHER
VERSUS
BASWANT KONDIBA BIRAJDAR DIED THR. L.RS.
BHAGABAI BASWANT BIRAJDAR AND OTHERS

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AGP for Applicant State : Mr.S.N.Morampalle

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CORAM : P.R. BORA, J.
Dated: August 12, 2016

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PER COURT :-

1. The State has filed the present application seeking condonation of delay which has occurred in filing the present appeal by it against the judgment and award passed in LAR No.300/1995, on 24th of January, 2008 by the Civil Judge, Senior Division, at Latur. Delay of 2135 days has occurred in filing the appeal.

2. Learned A.G.P. submits that in seeking approval from Law and Judiciary Department for filing an appeal and, thereafter, in making procedural compliances such as obtaining certified copies of necessary documents, different charts and for receiving the amount of Court fee, the time was consumed and for these reasons the delay

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has occurred. Learned A.G.P. submitted that the delay is unintentional and for bona fide reasons. Learned A.G.P., therefore, prayed for condonation of delay which has occurred in filing the appeal.

3. I have carefully perused the application seeking condonation of delay. The judgment impugned in the present appeal was admittedly delivered on 24th January, 2008. Even if it is presumed that in seeking legal advice from the Law and Judiciary Department and approval from the said Department for filing appeal and for procuring certified copies of the judgment and other documents, some time may be required, it cannot be accepted and justified that the period of six years will be required for such purpose. Moreover, what is noticed in the present matter is the fact that the application for obtaining certified copy of the impugned judgment was presented on 30th of June, 2011. There is absolutely no reason stated in the present application as to why for the period of three and half years was required for submitting an application for obtaining the certified copy of the impugned judgment. Thus, this is a case of gross negligence and lethargy on the part of the concerned Government officers. In absence of any reason stated for the delay of the aforesaid period of three and half years in applying for the certified copy of the impugned judgment, the prayer for -

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condonation of delay does not deserve to be considered.

4. 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 public interest.

5. 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.

6 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.

7. The Apex Court in the matter of **Pundlik Jalam Patil Vs. Ex.Engg.Jalgaon Medium Project and Ors.,**

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2008(6) BCR 513 held that unless and until sufficient cause is shown, inordinate delay should not be condoned.

8 Recently, 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.

9. In view of the law laid down as above, I am not inclined to allow the present application. Hence, the following order:

ORDER

1. The application for condonation of delay is rejected.
2. Consequently, the appeal on stamp number stands dismissed.
3. Pending Civil Application/s stand disposed of.

(P.R. BORA, J.)

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AGP/-