

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

CIVIL APPLICATION NO.7615 OF 2016
IN
FIRST APPEAL ST.NO.9622 OF 2016

Laxman s/o Daulatrao Patil ..Applicant

Versus

The State of Maharashtra through
the Collector, Latur, Taluka and
District Latur ..Respondent

WITH

CIVIL APPLICATION NO.7618 OF 2016
IN
FIRST APPEAL ST.NO.9626 OF 2016

Balasaheb Daulatrao Patil
since deceased, through L.Rs.
Kashibai and ors. ..Applicants

Versus

The State of Maharashtra through
the Collector, Latur, Taluka and
District Latur ..Respondent

AND

CIVIL APPLICATION NO.12929 OF 2016
IN
FIRST APPEAL ST.NO.23477 OF 2016

Ramgopal Gulabchand Soni
since deceased through his L.Rs.
Ramprasad and anr. ..Applicants

Versus

The State of Maharashtra through
the Collector, Latur, Taluka and
District Latur and ors. ..Respondents

Mr S.P. Tiwari, Advocate for applicants
Mr S.N. Moramopalle, A.G.P. for respondent in C.A.No.7615 and
C.A.No.7618 of 2016
Mr S.P. Deshmukh, A.G.P. for respondent in C.A.No.12929 of 2016

CORAM : P.R. BORA, J.

DATE : 26th September 2016

PER COURT

1. In Civil Application Nos.7615 and 7618 of 2016, 7650 days delay has occurred in filing the appeals, whereas in Civil Application No.12929 of 2016, delay of 18 years and 91 days has occurred in filing the appeal.

2. Learned Counsel appearing for the applicants submitted that the applicants are ready to waive the right of claiming the statutory benefits and the interest of the delayed period. In support of his contention, he placed reliance on the order dated **5.7.2011 passed by this Court in Civil Application No.2038 of 2010 in First Appeal St.No.3290 of 2010 (Dharma Shamu Patil Vs. The State of Maharashtra).**

3. Learned Counsel further submitted that in the companion matters, the compensation has been substantially enhanced and the same benefit deserves to be granted in favour of present appellants. Learned Counsel, therefore, prayed for condoning the delay which has occurred in filing the present appeals.

4. Learned A.G.P. appearing for the respondent-State, however, strongly opposed for condoning the delay. Learned A.G.P. submitted that in the entire application, the applicants have not assigned a single reason which may justify the delay which has occurred in filing the appeals. He submitted that in absence of any cogent and

sufficient reason, the delay cannot be condoned. In support of his contention, the learned A.G.P. relied upon the judgment of Apex Court in the matter of **Brijesh Kumar and ors., Vs. State of Haryana, 2014 (11) SCC 351, wherein** the Honourable Apex Court has observed that the Court cannot condone the delay on sympathetic grounds alone.

5. In Civil Applications No.7615 of 2016 and 7618 of 2016, the reason assigned by the applicants in paragraph 4 of the applications is that the delay be condoned on the ground that the applicants are ready to undertake that they would not claim the interest of enhanced compensation from the date of decision of the judgment and award passed by learned Joint Civil Judge, Senior Division, Latur till the date of filing of present first appeals. In both these applications, in paragraph 3, the applicants have stated that there is no intentional delay caused by the applicants but the delay is occurred due to lack of knowledge of provisions of law as well as illiteracy.

6. In Civil Application No.12929 of 2016, it is the contention of the applicants that since the land acquisition reference before the Civil Court at Latur was being looked after by their father, they were not aware of the progress in the said proceeding. It is further contended that the moment they come to know that the judgment was delivered in the land acquisition reference filed by their father, they immediately applied for certified copy of the said award and filed the present appeal along with the application for condonation of delay without any loss of time.

7. Law is well settled that the words, 'sufficient cause' as are used in Section 5 of the Limitation Act, shall receive liberal construction and the Court should not adopt an injustice-oriented approach in rejecting the application for condonation of delay. However, in catena of judgments, the Honourable Apex Court has held that the Court, while dealing with the application for condonation of delay, the Court has to draw a distinction between 'delay' and 'inordinate delay'. Moreover, sufficient cause is a condition precedent for exercise of discretion by the Court for condoning the delay. Needless to state that question of delay condonation would depend upon peculiar fact situation of each case. The adequacy of reasons stated by the petitioner or applicant has to be examined by the concerned Court and to form an opinion whether on the grounds or reasons stated in the application, the delay can be condoned.

8. As observed by this Court (Kingaonkar, J.) in the case of **Sow Kamalabai, w/o Narasaiyya Shrimal and Narsaiyya, s/o Sayanna Shrimal Vs. Ganpat Vithalroa Gavare**, reported in **2007 (1) Mah.J.L. 807**, the expression 'sufficient cause' cannot be erased from Section 5 of the Limitation Act by adopting excessive liberal approach which would defeat the very purpose of Section 5 of the Limitation Act. There must be some cause which can be termed as a sufficient one for the purpose of delay condonation.

9. In the present case, I do not find any such sufficient cause stated in the applications and as such, I am not inclined to allow these

applications. The ground stated in the applications that the applicants were unaware of passing of impugned judgment and award cannot be in any case said to be a sufficient cause. The ground of illiteracy on the part of the applicants also cannot be accepted as a sufficient ground.

10. The another ground which has been pressed by the applicants is that, the other similarly situated persons who had preferred the appeals in time had been given higher compensation and as such, the appeals filed by the present appellants need to be heard by condoning the delay. While making such prayer, the applicants have also undertaken not to claim any interest of the period of delay. Similar such issues were raised in the case of **Brijesh Kumar and ors., Vs. State of Haryana, 2014 (11) SCC 351** (cited supra). The Honourable Apex Court, while confirming the order passed by the High Court, whereby the High Court had rejected the request for condonation of delay, in paragraph 12 has observed thus :

“12. It is also a well settled principle of law that if some person has taken a relief approaching the Court just or immediately after the cause of action had arisen, other persons cannot take benefit thereof approaching the court at a belated stage for the reason that they cannot be permitted to take the impetus of the order passed at the behest of some diligent person.”

11. In the aforesaid judgment, the Honourable Apex Court has referred to its earlier judgment in case of **State of Karnataka &**

Ors., v. S.M. Kotrayya & Ors., (1996) 6 SCC 267, wherein also the Honourable Apex court had rejected the contention of the petitioner therein that a petition should be considered ignoring the delay and laches on the ground that he filed the petition just after coming to know of the relief granted by the Court in a similar case as the same cannot furnish a proper explanation for delay and laches.

12. The order which has been relied upon the applicants passed by this Court (Coram : R.M. Borde, J.) in Civil Application No.2038 of 2010 in Fist Appeal St.No.3290 of 2010 also cannot be of any help for the reason that the view taken in the said matter cannot be said to a ratio laid down by the Court.

13. In the instant matters, after considering the facts and circumstances and the contentions raised in the applications, I do not find any sufficient ground to condone the delay. I reiterate that the delay caused in preferring the appeals is inordinate and absolutely no reason much less the sufficient reason is assigned by the applicants for condonation of such delay. As held by the Honourable Apex Court in the case of **Basavraj Vs. Land Acquisition Officer (2013) 14 SCC 81**, equity cannot be a ground to extend the limitation period for condonation of delay, if there is no sufficient cause.

14. As noted herein above, in Civil Application No.12929 of 2016, the applicants have taken a plea that their father was looking after the litigation and only after the death of their father, they come to know about it. However, on perusal of the judgment delivered in land

acquisition reference filed by the father of these applicants, it is revealed that the judgment in the said matter was delivered by the reference Court on 29.1.1998. As stated in the application, father of the applicants died on 26.10.2008. It is thus evident that the father of the applicants was alive for ten years after passing of the judgment by the reference Court, but he did not prefer any appeal during his lifetime. Thus, this also cannot be accepted as a sufficient ground.

15. In view of the fact that the applicants have not assigned any just and sufficient reason in justification of the delay occurred in filing the appeals by them, the applications deserve to be dismissed and are accordingly dismissed. Consequently, the appeals filed on stamp numbers also stand dismissed.

(P.R. BORA, J.)

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