

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

43 CIVIL APPLICATION NO.7177 OF 2016
IN FAST/11111/2016 WITH CA/7178/2016 IN
FAST/11111/2016

PRADEEP MANDAL NEEMAI AND ANR
VERSUS
MAYUR NAWAL PATIL AND ORS

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Adv.for Applicants : (Jape) Ansingkar Dipali S.
Mr. Deshmukh Rajendra S. Adv For Resp 1 To 3.

CORAM : P.R.BORA, J.

DATE : 20th December, 2016.

PER COURT :

1) Heard learned Counsel for applicants and
learned Counsel for the respondents, i.e.
original claimants.

2) MACP No.580/2007 was decided by Motor
Accident Claims Tribunal, Dhule (for short, the
Tribunal) on 2nd July, 2012. Aggrieved by, the
present applicants/appellants preferred an appeal
along with CA for condonation of delay on 26th
February, 2016. Learned Counsel appearing for
the applicants inviting my attention to the

averments in para 1 and 2 of the application, submitted that in seeking sanction at different levels and in making the procedural compliances, time was consumed and that is the reason that the appeal could not be filed within stipulated period of limitation. The learned counsel further submitted that the delay is unintentional and for bonafide reasons. The learned Counsel, therefore, prayed for condoning the delay and extending an opportunity to the applicants to contest the matter on merits.

3) The respondents have filed a detailed reply to the CA for condonation of delay. Shri Deshmukh, learned Counsel appearing for the respondents, has vehemently opposed for condoning the delay stating that there is absolutely no justification on the part of the applicants for condoning the delay. On perusal of the contents in the application, it does not appear that there was any cogent and sufficient reason for occurrence of such huge delay. It appears that

there was sheer negligence on the part of the concerned officers and, therefore, the huge delay cannot be condoned.

4) The Apex Court in the matter of **Maniben Devraj Shah Vs. Municipal Corporation of Brihan Mumbai, reported in 2012 (5) SCC 157**, has 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 matter of **Pundlik Jalam Patil Vs. Ex.Engg.Jalgaon Medium Project and Ors., 2008(6) BCR 513** held that unless and until sufficient cause is shown, inordinate delay should not be condoned.

6) The Apex Court in the matter of

Commissioner, Nagar Parishad, Bhilwara Vs. Labour Court, Bhilwara & Anr. 2009 (3) SCC Pg. 525 held that while dismissing an Appeal on the ground of limitation, going into the merits of the case is not allowed.

7) 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.

8) In the result, the Civil application for condonation of delay is rejected. Consequently, the first appeal on stamp also stands rejected. Pending CA, if any, stands disposed of.

(P.R.BORA)
JUDGE

bdv/