

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1) CA NO.5598/2016gr

**926 CIVIL APPLICATION NO. 5598 OF 2016
IN FAST/11326/2016**

WITH

CA/5596/2016 IN FAST/11320/2016

WITH

CA/5597/2016 IN FAST/11320/2016

WITH

CA/5599/2016 IN FAST/11326/2016

WITH

CA/5600/2016 IN FAST/11331/2016

WITH

CA/5601/2016 IN FAST/11331/2016

THE STATE OF MAHARASHTRA AND ANR

VERSUS

SHAKTISINHA KISHANRAO KHOMANE

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AGP for Applicants/applicants: Mr.G.O.Wattamwar
Mr.Venjane Tukaram M., Advocate for respondent (sole).

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CORAM : P.R. BORA, J.

Dated: August 26, 2016

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PER COURT :-

1. Heard Shri G.O. Wattamwar, learned A.G.P. appearing for the State, and Shri T.M.Venjane, learned Counsel appearing for the original claimant.

2. In these matters delay caused in filing the appeals is of 1762 and 1804 days, respectively. In Civil Application No.5600/2016, though respondent no.1 is not served, since I am not inclined to allow the present

AGP/-

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applications, no prejudice is likely to be caused even if the respondents are not served.

3. The awards which have been impugned in the present appeals were admittedly passed on 27th January, 2011. The averments in the present applications reveal that the proposal was forwarded to the Law and Judiciary Department seeking their approval for filing the appeals, and such approval was received to the Office of the Government Pleader, High Court at Aurangabad on 10th May, 2011. The averments in the application further reveal that the concerned appeals were allotted for drafting to learned Assistant Government Pleader on 8th June, 2011. The averments further reveal that the appeal memos were immediately prepared, however, for securing the documents to be annexed with the memo of appeals like different charts, typed copies of the judgment, etc. and so also, for securing the amount of Court fees, some time was consumed and that is the reason that the appeals could not be filed within the period of limitation.

4. It is unconscionable that the period of five years will be required for securing different charts and other documents or the amount of Court fees. The Apex Court

AGP/-

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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 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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