

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1) CA NO.9291 of 2016

**933 CIVIL APPLICATION NO. 9291 OF 2016
IN FAST/11854/2016
WITH
CA/9292/2016 IN FAST/11854/2016**

THE STATE OF MAHARASHTRA
VERSUS
SHOBHABAI RAOSAHEB JADHAV AND ANR

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AGP for applicant State: Mr.S.P.Deshmukh
Advocate for Respondent no.1: Mr.R.K.Ashtekar
Mr.Manale Satish S., Adv., for respondent no.2.

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CORAM : P.R. BORA, J.
Dated: August 26, 2016

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PER COURT :-

1. Heard Shri Deshmukh, learned A.G.P. appearing for the applicant State, Shri Ashtekar, learned Counsel for the original claimant and Shri S.S.Manale, learned Counsel for respondent no.2.

2. Delay of 2003 days has occurred in filing the present appeal. On perusal of the present application, it is revealed that the only reason stated for occurrence of delay is that the certified copies of the relevant documents were to be secured and the amount of the Court fees was also to be collected and that is the reason that the appeal could not be filed within the stipulated period of limitation.

AGP/-

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(2)

CA NO.9291 of 2016

3. The award which has been impugned in the present appeal is passed on 19th of July, 2010. From the averments in the application it is difficult to gather as to when an application seeking certified copy of the said order was preferred and when the same was received. It is further not disclosed as to why the period of four years was consumed in forwarding the proposal to the Law and Judiciary Department seeking approval for filing an appeal. 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.

4. 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:

AGP/-

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
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(3)

CA NO.9291 of 2016

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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