

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

945 CIVIL APPLICATION NO.5273 OF 2016
IN
FIRST APPEAL ST/12230/2016 WITH CA/5274/2016

THE STATE OF MAHARASHTRA
VERSUS
AMBADAS HAIBATI BUJADI AND ORS

...

Advocate for Applicant : Mr. SP Deshmukh, AGP;
Mr. P B Shirsath, Adv. R/1 To 3.

CORAM : P.R.BORA, J.

DATE : 19th August, 2016.

PER COURT :

1) Heard. Delay of 3079 days has occurred in filing the present appeal by the State against the common Award dated 18th April, 2007 passed by Civil Judge, Senior Division, at Kopargaon in LARs Nos.4/2001 and 1/2001.

2) Learned AGP submits that a proposal was immediately forwarded to the Law & Judiciary Department seeking legal opinion and also approval from the said Department for filing an

appeal against the impugned Award. Learned AGP further submitted that such sanction was received to the office of Government Pleader, Aurangabad on 27.1.2011 and thereafter all prompt steps were taken by the office of Government Pleader, Aurangabad for filing the appeal. However, for want of necessary certified copies of different documents to be annexed with the memo of appeal, the appeal could not be filed within stipulated period of limitation. The learned AGP further submits that having regard to the serious objections raised by the appellant in exception to the impugned Award, the delay may be condoned and opportunity may be extended for contesting the matter on merits.

3) Shri Shirsat, learned counsel appearing for the original claimants has strongly opposed for condoning the delay. The learned counsel submitted that there is absolutely no justifiable reasons for occurrence of such huge delay. The learned Counsel has, therefore, prayed for

rejecting the application and consequently to dismiss the appeal filed by the appellant.

4) On perusal of the application for condonation of delay, it is revealed that the delay has occasioned at two stages, firstly in receiving the sanction from the Law & Judiciary Department and secondly after receiving such sanction for filing the appeal. Admittedly, the impugned Award was passed on 18th April, 2007. Nothing is placed on record so as to demonstrate as on which date the proposal was forwarded to the Law & Judiciary Department seeking their approval or legal opinion for filing an appeal. It is further unconscionable that for seeking such legal opinion and approval, a period of four years can be spent. Secondly, though admittedly the legal opinion was received from the Law and judiciary Department on 27.1.2011, the present appeal has been filed on 12th April, 2016, i.e. almost after a period of five years. The reasons stated for occurrence of the delay of the said

period that necessary copies of the document were not available, cannot be in any case accepted. This appears to be a case of gross negligence and lethargy on the part of the Government officials.

5) 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.

6) 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.

7) 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.

8) 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.

9) 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.

10) In view of the law laid down as above by

the Hon'ble Apex court, I am not inclined to allow the present application. In the result, the application for condonation of delay is rejected. Consequently, the appeal which is on stamp and CA for stay are also dismissed.

(P.R.BORA)
JUDGE

bdv/