

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

9 CIVIL APPLICATION NO. 11401 OF 2016
IN FAST/22195/2016

VIRNATH KASHINATH TONGALE DIED HIS LRS MAHADEVI AND ORS
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicants : Dharashive M.L.
AGP for Respondents: Y.G. Gujrathi

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CORAM : P.R. BORA, J.
DATE : 08-12-2016.

P.C. :

1. Delay of 1224 days has occurred in filing the present appeal by the original claimants. Shri M.L. Dharashive, the learned counsel appearing for the applicant submitted that because of the financial difficulties and the death of the husband of present applicant no.1 in the year 2012, the appellants/applicants could not take the necessary steps for filing the appeal. The learned counsel submitted that, the delay caused is for bonafide reasons and unintentional. The learned counsel further submitted that, the appellants/applicants have already submitted an undertaking to this court that in the event of success in appeal the appellants/applicants will not claim the statutory benefits or interest on the enhanced amount of compensation for the period of delay.

2. Shri Y.G. Gujrathi, the learned A.G.P. has opposed for condoning the delay. The learned A.G.P. submitted that, the delay is

of a huge period and has not been sufficiently explained he, therefore, prayed for rejecting the application.

4. After having considered the submissions advanced by the learned counsel appearing for the respective parties, it appears to me that, the appellants/applicants need to be given an opportunity to contest the appeal on merits. The reasons which are assigned in justification of the delay caused cannot be out rightly rejected. Moreover, the appellants/applicants have undertaken not to claim any statutory benefit or interest in the case of enhancement in the amount of compensation on the said amount for the period of delay. In view of the above, I am inclined to allow the present application. Hence the following order:

ORDER

- i) The delay caused in filing the appeal is condoned.
- ii) Appeal be registered in accordance with law.
- iii) It is clarified that as undertaken by the appellants /applicants they will not be entitled for any statutory benefit or interest for the period of delay, in case they succeed in the appeal.
- iv) A copy of the present order be kept in the papers of the appeal.
- v) Civil application stands disposed of.