

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

930 CIVIL APPLICATION NO.12512 OF 2016
IN FAST/25827/2016 WITH CA/12513/2016 IN
FAST/25827/2016

THE STATE OF MAHARASHTRA
VERSUS
YASHWANT TUKARAM KASAR

....

Mr.G.O.Wattamwar, AGP for State.

CORAM : P.R.BORA, J.

DATE : 15th September, 2016.

PER COURT :

1) Heard the learned AGP. Delay of 1858 days has occurred in filing the present appeals by the State against the common judgment and award dated 19.4.2011 passed by Civil Judge, Senior Division, Omerga in LAR No.133/2005 (Old No.420/1997).

2) On perusal of the application, it is revealed that the approval was received from the Law & Judiciary Department for filing the appeal against the judgment and award passed in the

aforesaid matter on 6th September, 2011. A communication in that regard was received to the office of Government Pleader, High Court, Bench at Aurangabad on same date. It is further contended that after receiving such approval, some time was consumed in collecting the certified copies; securing different charts and arranging for court fees. The reasons, which are assigned in justification of the delay in question, cannot be, in any way, accepted to be the just and sufficient cause for condoning the delay. There is absolutely no explanation as to why the period of more than five years was spent in getting the certified copies and getting them typed and also for getting the other documents to be annexed with the memo of appeal.

3) 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 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.

5) 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.

6) Recently, the Apex Court in the matter of **Esha Bhattacharajee 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.

7) Since no justifiable reasons are assigned for the occurrence of huge delay in filing the appeal, in view of the ratio laid down by the Hon'ble Apex court, in aforementioned judgments, I am not inclined to allow the present application.

8) In the result, the application for condonation of delay is rejected. Consequently, the appeal which is on stamp number is also rejected. Pending Civil Applications, if any, stand disposed of.

(P. R. BORA)
JUDGE

bdv/