

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

14 CIVIL APPLICATION NO. 13590 OF 2016
IN FAST/26456/2016 WITH CA/13592/2016 IN FAST/26456/2016

THE STATE OF MAHARASHTRA AND ORS
VERSUS
DAGDU RAMRAJ KUSALKAR DIED HIS LRS DROPADABAI AND ORS

...
Advocate for Applicants : S.N. Morampalle
Advocate for Respondents : R S Deshmukh For R/1 To 4
...

CORAM : P.R. BORA, J.
DATE : 24-11-2016.

P.C. :

1. Heard Shri S.N. Morampalle, learned A.G.P. and Shri Deshmukh, the learned counsel appearing for the respondents i.e. original claimants.

2. Delay of 1650 days has occurred in filing the present appeal by the state. On perusal of the application, it is revealed that, the approval for filing the present appeal was received from the Law and Judiciary Department in February 2012, but the appeal came to be filed on 22.08.2016 i.e. after a period of four and half years. It is the contention of the applicants that, that after receiving the approval from Law and Judiciary Department, the government pleader's office had asked for certain documents to be annexed with the appeal from the concerned department and the same were received to the government pleader's office on 21.06.2016.

3. The contents of the application further reveal that, the letter was forwarded by the government pleader's office to the concerned department on 21.02.2012. It appears unconscionable that, period of four years may be required for submitting the documents which were asked for by the government pleader's office. It appears to be a case of sheer negligence on part of the concerned government officials. In absence of any cogent and sufficient explanation for the huge period of delay of about four and half years, I am not inclined to allow the present application.

4. The Apex Court in the matter of **Maniben Devraj Shah Vs. Municipal Corporation of Brihan Mumbai, reported in 2012 (5) SCC 157**, has 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 Apex Court in the matter of **Pundlik Jalam Patil Vs. Ex.Engg.Jalgaon Medium Project and Ors., 2008(6) BCR 513** has held that unless and until sufficient cause is shown, inordinate delay should not be condoned.

6. For the reasons as above the following order is passed.

ORDER

- i) The application is rejected.
- ii) Consequently, the appeal on stamp number also stands dismissed.
- iii) Pending, civil applications, if any, stand disposed of.

**(P.R. BORA)
JUDGE**