

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AURANGABAD**

**CIVIL APPLICATION NO. 5561 OF 2017
IN FAST/7973/2017**

**SUDHAKAR @ SADASHIV KISAN KULKARNI AND ORS
VERSUS
THE STATE OF MAHARASHTRA AND ANR**

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Advocate for Applicants : Bide Dnyaneshwar A
AGP for Respondent no.1: Mr. B.A.Shinde
Advocate for Respondent no.2: Biradar Chandrant D.

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CORAM : K.L.WADANE, J.

DATED : 22nd September, 2017

O R D E R :

Heard learned counsel for the parties. This is an application for condonation of delay of 1679 days caused in filing First Appeal.

2. On perusal of the application, it appears that the applicants are illiterate and were not having sufficient source of income for payment of court fee and necessary expenses to prefer appeal within limitation. However, the inaction and/or negligence on the part of applicants to some extent, is responsible for causing such inordinate delay.

3. Learned A.G.P. for the respondent/State and learned counsel for respondent no.2 strongly resisted the application on the ground that the delay has not

been explained satisfactorily. In the alternate, they submit that delay may be condoned on the condition that if the applicants succeed in the appeal, the applicants shall not be entitled for the amount of interest and/or other statutory benefits of the period for which delay is sought to be condoned.

4. In view of above and in the light of observations made by the Supreme Court in para 14 of the judgment in the case of **Ramanlal Deochand Shah vs State of Maharashtra and another**, reported in **AIR 2013 SC 3452**, Civil Application for condonation of delay is allowed. Delay in filing the appeal is hereby condoned. The applicants will not be entitled for monetary benefits for the period of delay sought to be condoned.

5. Civil Application is disposed of.

6. In First Appeal, issue notice to the respondents, returnable on 4.12.2017.

7. Mr. B.A.Shinde, learned A.G.P. waives service of notice for respondent no.1 and Mr. C.D.Biradar, learned counsel waives service of notice for respondent no.2.

(K.L.WADANE, J.)

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