

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

63 WRIT PETITION NO. 7940 OF 2013

ATHARVA BUILDINGS AND DEVELOPERS AND ANOTHER  
VERSUS  
THE TREASURER(COLLECTOR), AURANGABAD AND ANOTHER

...  
Advocate for Petitioners : Mr. S.S. Patil  
AGP for Respondents/State : Mr. S.N. Morampalle

...

**CORAM : S.V. GANGAPURWALA, J.**  
**DATE : 29.08.2017**

**P.C. :**

. The appeal filed by the petitioner along with an application for condonation of delay is rejected.

2. The learned counsel for the petitioner submits that the appeal filed by the petitioner is a substantive appeal. A statutory right has been given to the petitioner, the same cannot be taken away on technical grounds. In view of Section 29 of the Limitation Act, provisions of Section 4 to 24 of the Limitation Act would still be available.

3. I have heard the learned A.G.P.

4. The authority under the Stamp Act is not a Court, so as to apply Section 5 of the Limitation Act. The appeal admittedly is filed beyond the prescribed period of limitation. There is no provision for condonation of delay. It is fairly submitted that larger bench of Gujarat High Court in a case of **State of Gujarat & Ors.**

**V/s. State of Gujarat & Ors.** in Spl. C.A. no. 12147/2013 decided on 11.08.2014, has held that authority under the Stamp Act does not have power to condone the delay in an appeal, while invoking Section 53 of the Stamp Act. In view of that, writ petition is dismissed. No costs.

**(S.V. GANGAPURWALA)**  
**JUDGE**