

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Civil Application [CAF] No. 41 of 2016
IN
First Appeal St. No. 10146 of 2012
[Jayantabai Jairam Hatzade & others Vs. Laxmibai Dayaramji
Gahane & another]

Office Notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's orders

Ms. Monali H. Pathade, Adv., for the applicants.
Mr. A.M. Quazi, Adv., for respondent no.2.

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CORAM : A. S. CHANDURKAR, J.

DATE : 10th January, 2017

By this application, the applicants, who are original claimants, pray that the delay in filing the First Appeal be condoned. The reasons for the cause of delay are mentioned in para 6 of the application.

The application is opposed by learned counsel for the respondent no.2. He placed reliance on the decisions in [1] **Leela Fondu Mayekar & ors. Vs. Damodar Datta Zuwarkar & another** [2014 (5) Mh.L.J. 718], [2] **Ashok Kumar Vs. Distt. Magistrate, Basti & another** [(2012) 3 SCC 311], and [3] **K. Ayya Thayalnayagiammal Vs. T.V. Thomas** [2000 DGLS (Soft.)49]. It is submitted that reasons assigned are not sufficient and hence the delay does not deserve to be condoned.

By the Award passed by the Claims Tribunal, the respondent no.1 - owner has been held liable to satisfy the claim for compensation. Till filing of the present application, the said Award has not been executed. Further, delay of 606 days in filing application for restoring the present proceedings has been condoned on 9th December, 2015. I do not find, the delay, as caused, appears to be deliberate. The ratio of the decisions relied upon turn on the facts of the case in question. Hence delay in filing the First Appeal stands condoned. Civil Application is allowed and disposed of.

First Appeal St. No. 10146/12 :

Heard.

Admit. Call for record and proceedings.

Shri Quazi, learned counsel, waives notice on behalf of respondent no.2.

Judge