

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

907 CIVIL APPLICATION NO. 2561 OF 2017
IN FAST/1583/2017

THE EXECUTIVE ENGINEER L.M.I. DIVISION, LATUR AND ORS

VERSUS

LAXMAN RANGNATH DEVKKATE

WITH CA/2549/2017 IN FAST/1433/2017
WITH CA/2551/2017 IN FAST/1580/2017
WITH CA/2553/2017 IN FAST/1577/2017
WITH CA/2555/2017 IN FAST/1833/2017
WITH CA/2557/2017 IN FAST/1574/2017
WITH CA/2559/2017 IN FAST/1586/2017
WITH CA/2563/2017 IN FAST/1571/2017

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Advocate for Applicants : Mr. Dama Prashant P.
Advocate for Respondent sole : Mr.G J Kore (vp Not Filed)
Mr.Gundre Suraj V.

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CORAM : SUNIL K. KOTWAL, J.

DATE : SEPTEMBER 26, 2018

O R D E R :

These Applications are filed by the applicant for condonation of delay within range of 1860 to 1876 days in filing appeals, against the judgment and award, passed by the Civil Judge, Senior Division, Ahmedpur.

2. Learned counsel for the applicant submits that as the applicant was busy in discharge of various official duties being Officer of Corporation and he was required to seek adversary instructions from higher authorities to seek legal remedies in the matter, the above referred inordinate delay in filing appeal has been caused.

3. Next ground submitted by the learned counsel for condonation of delay is that before filing appeals, time was required for seeking appropriate guidance from the Government.

4. Learned counsel for the respondent opposes the applications on the ground that the reasons assigned by the applicant are not sufficient to condone the delay. He submits that the Officers from the Corporation and even the Government authorities are expected to be diligent while taking steps in filing appeal.

5. The delay caused due to obtaining necessary approval and guidance from higher authorities cannot be a ground for condonation of delay. Except the time required for obtaining necessary approval and guidance from higher authorities, no other reason is assigned by the applicant to explain the above referred inordinate delay in filing the appeal.

6. The applicants are the employees of statutory corporate body and Government Department, that cannot be a ground to show special latitude to the applicant when question arising before the Court is regarding condonation of delay in filing the appeal.

7. In **Postmaster General and Ors. vs. Living Media India Limited and anr.**, reported in [4(2012) 3 SCC 563], the Hon'ble Supreme Court declined to condone the delay of 427 days in filing the special

leave petition by observing that department cannot take advantage of various earlier decisions where a very liberal approach was adopted when it came to condone delay on the part of Government agencies. The Hon'ble Supreme Court observed that the claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody including the Government. It is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red-tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and

commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for government department. The law shelters everyone under the same light and should not be swirled for the benefit of a few. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, the Hon'ble Supreme Court held that, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay.

8. In **Basawaraj and anr. vs. Special Land Acquisition Officer, reported in [(2013) 14 SCC 81]** the Hon'ble Supreme Court went on to observe that the law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party

is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature.

9. The Division Bench of this Court in **State of Maharashtra and ors. vs. Vithu Kalya Govari and ors., reported in [2008(6) Mh.L.J.239]** has observed that the State is not expected to be negligent or to take

no action for years and let the matters become time barred on account of its negligence and inaction. The usual reason of "official hassle" or "approval at different levels" is hardly sufficient to justify condonation of delay of about two years. In law, advantage has accrued to the non-applicants claimants and the same cannot be withdrawn in a mechanical manner and that too without any sufficient cause being shown by the applicants. Despite, awards/judgments of the Courts, which have attained finality, the claimants are not permitted to receive compensation in respect of their lands, which came to be compulsorily acquired, is itself, sufficient prejudice to them. Therefore, before any delay can be condoned and the claimants subjected to further prolonged litigation, the onus to show sufficient cause lies upon the applicant State.

10. In **Pundlik Jalam Patil (Dead) By Lrs. vs. Executive Engineer, Jalgaon, Medium Project and anr.,**

reported in [(2008) 17 SCC 448], the Hon'ble Supreme Court has held that pursuing stale claims and multiplicity of proceedings in no manner subserves public interest. These public interest parameters ought to be kept in mind by the courts while exercising the discretion dealing with the application filed under section 5 of the Limitation Act. Dragging the landlosers to courts of law years after the termination of legal proceedings would not serve any public interest. Settled rights cannot be lightly interfered with by condoning inordinate delay without there being any proper explanation of such delay on the ground of involvement of public revenue. This serves no public interest. Though, the State or its instrumentalities seeking condonation of delay may be entitled to certain amount of latitude but the law of limitation is same for citizens and for governmental authorities. It would be a different matter where the Government makes out a case where public interest was shown to have suffered owing to

acts of fraud or collusion on the part of its officers or agents and where the officers were clearly at cross purposes with it. In a given case, if any, such facts are pleaded and proved they cannot be excluded from consideration. In cases with which we are concerned, no such facts have been either pleaded or proved.

11. Applying the above principles to the facts and circumstances of the present case, I am fully satisfied that no reasonable and sufficient cause has been assigned by the applicant to condone the delay. Therefore, these all Applications for condonation of delay are liable to be dismissed.

12. Accordingly Civil Application Nos. 2561, 2549, 2551, 2553, 2555, 2557, 2559 and 2563 of 2017 are dismissed. There shall be no order as to costs. As a consequence of dismissal of Civil Applications, the First Appeals also stand disposed of. Pending

Civil Applications, if any, also shall stand disposed of.

[SUNIL K. KOTWAL, J.]

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