

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

913 CIVIL APPLICATION NO.2577 OF 2018
IN FAST/23788/2014

WITH
CA/2578/2018 IN FAST/24653/2014

TULSHIRAM NAMA SABDE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Applicants : Mr. Halkude S.S.
Mr. PG Borade, AGP for Respondents 1 to 3.

CORAM : P.R.BORA, J.

DATE : 23rd August, 2018.

PER COURT :

1) Heard Shri Halkude, learned counsel appearing for applicant/s and learned AGP appearing for the respondents.

2) Delay of 984 days has occurred in preferring the present first appeals by the original claimants. Learned counsel for the applicants submitted that the applicants came to know about passing of the judgment in the Reference Application bit late because of lack of communication between them and their counsel. The learned counsel submitted that after becoming

aware of the order passed in the Reference Application, the appeals have been promptly preferred. The learned counsel further submitted that the delay caused is for bonafide reasons and unintentional. The learned counsel further submitted that the applicants are ready to give up their right of claiming statutory benefits and the interest of the period of delay. The learned counsel, therefore, prayed for allowing the applications so that they can prosecute their appeals on merits.

3) Learned AGP has opposed for condoning the delay stating that the reasons, as are assigned, are insufficient to condone the huge delay of 984 days. The learned AGP, therefore, prayed for rejecting the applications.

4) After having heard the learned counsel appearing for the parties and on perusal of the applications, I find that the reasons, as are assigned by the applicants cannot be outrightly rejected. Moreover, the applicants have undertaken that they will not claim the statutory

benefits and interest of the period of delay. Having considered the facts, as aforesaid, I deem it appropriate to pass the following order, -

ORDER

i) The delay caused in preferring the first appeals is condoned. The appeals be registered in accordance with law.

ii) The applicants shall file their aforesaid undertaking within four weeks. The undertaking shall be kept with the papers of appeal

iii) It is clarified that in the event of their success in the appeal, the applicant shall not be entitled for any statutory benefit under the provisions of the law as well as the interest of the period of delay on the enhanced amount of compensation.

iv) The copy of this order shall be placed with the papers of appeal.

v) The Civil Applications stand disposed of.

(P.R.BORA)
JUDGE

bdv/