

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

CIVIL APPLICATION NO. 10031 OF 2017
IN FAST/30196/2016

ASHOK YADAVRAO KAMBLE AND ORS
VERSUS
JAGDISH JANARDHAN OVAL AND ORS

...
Advocate for Applicants : Mr. S. S. Thombre.
Advocate for Respondents No.1, 4, 6 to 9: Mr. A.S.Kulkarni h/f.
Mr. D.P.Palodkar.
AGP for respondents No. 2 & 10 : Ms. S.S. Raut
...

CORAM : K.K. SONAWANE, J.

DATED : 25th JUNE, 2018.

Order :-

1. Heard learned counsel for the applicants and learned counsel for respondents No. 1, 4 and 6 to 9 and learned AGP for respondents No. 2 and 10. Respondents No. 3 and 5 are shown to be dead.
2. The present application is filed applicants seeking condonation of 125 days delay caused in filing the present appeal against the impugned order dated 11-02-2016 passed by the learned Principle District Judge, Latur, in Civil Misc. Application No. 38 of 2012. It has been submitted that so-called delay caused was not intentional or deliberate but owing to time spent for legal advice as well as for arrangement of requisite fees for court proceedings.
3. The learned counsel for respondents No. 1, 4 and 6 to 9 and learned AGP for respondents No. 2 and 10 raised objection and submit that the applicants did not give satisfactory explanation for the delay caused in the appeal. There were no reasonable cause for condonation of delay. The reasons shown for delay appears to be imaginary and fabricated one. Hence, learned counsel for respondents prayed not to nod in favour of applicants.
4. Admittedly, the matter pertains to change report, which has

been occurred in the year 2000. There is delay of 125 days delay for filing the present appeal against the impugned order passed by the learned Principle District Judge in Civil Misc. Application No. 38 of 2012.

5. However, in view of the nature of subject-matter and reasons mentioned in the application, I find that one more opportunity is required to be given to the applicants to approach to the appellate forum for redressal. The matter pertains to the public charitable trust. In such circumstances, there is no impediment to condone the delay subject to some monetary fetter on the applicants. It would sub-serve the purpose in the interest of justice.

6. Accordingly, the application stands allowed in terms of prayer clause "B". The delay caused for filing the present appeal stands condoned subject to cost of Rs. 10,000/- (Rupees Ten Thousands) to be paid to the Library of Advocate's Bar Association, High Court of Bombay Bench at Aurangabad within a month from the date of this order. Registry to take requisite steps for registration of appeal on furnishing receipt of payment of cost to the Library as mentioned above.

5. On registration of appeal, issue notice to the respondents. Mr. Palodkar, learned counsel waives service of notice on behalf of respondents No. 1, 4, 6 to 9 and learned AGP waives service of notice on behalf of respondents No. 2 and 10.

6. Call for record and proceedings.

7. After due compliance, list the appeal for admission on 25th July, 2018.

Sd/-

[K. K. SONAWANE]
JUDGE

MTK.