

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 1050 OF 2018 IN
FIRST APPEAL ST. NO. 975 of 2018

Shivaji s/o Vasant Jot

Applicant

Versus

The State of Maharashtra
& others

Respondents

Mr. K.V. Patil, advocate for applicant.

Mr. A.M. Phule, A.G.P. for respondents no. 1 and 2.

CORAM : P.R. BORA, J.

DATE : 11th FEBRUARY, 2019

PER COURT:

1. Heard Mr. Patil, learned counsel for the applicant and Mr. Phule, learned AGP for the State. Respondent no. 3 though has been duly served, no one has caused appearance on its behalf.

2. Delay of 1765 days has occurred in filing the present appeal. It is the contention of applicant that because of financial crunch and lack of awareness about limitation, the appeal could not be filed within the period of limitation. Learned counsel further submits that the applicant is ready to waive interest for the period of delay in the event the amount of compensation is enhanced.

3. Learned AGP has opposed for condoning delay stating that the reasons as are assigned are absolutely untenable. Learned AGP in the alternative submitted that if the Court is inclined to

condone the delay, the claimants shall be disentitled from claiming interest for the period of delay.

4. After having considered the submissions, it appears to me that in view of the undertaking given by the appellant/applicant for not claiming interest for the period of delay, an opportunity needs to be given to the appellant to prosecute the appeal on merit. Hence the following order:

ORDER

- i) Application is allowed.
- ii) Delay caused in filing the appeal is condoned.
- iii) Appeal be registered in accordance with law.
- iv) It is clarified that in the event of his success in the appeal, the appellant shall not be entitled for the interest on the enhanced amount of compensation for the period of delay.
- v) Copy of the present order be kept alongwith the papers of the appeal.
- vi) Civil application stands disposed of.

(P. R. BORA, J)