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

904 CIVIL APPLICATION NO.1593 OF 2012
IN X-OBJST/160/2012

SITARAM GULABCHAND AGRAWAL
VERSUS
MUNICIPAL COUNCIL THROUGH CHIEF OFFICER
...

905 CIVIL APPLICATION NO.6789 OF 2012
IN X-OBJST/13679/2012

GOPAL VASANT SURWASE AND ANR
VERSUS
THE STATE OF MAHARASHTRA AND ORS
...

906 CIVIL APPLICATION NO.1895 OF 2013
IN X-OBJST/2512/2013 WITH FA/2304/2010 WITH
FA/2307/2010 WITH FA/2309/2010 WITH FA/2310/2010 WITH
FA/2311/2010 WITH FA/2312/2010 WITH CA/6184/2011 IN
FA/2312/2010 WITH FA/2316/2010 WITH FA/2317/2010 WITH
FA/2318/2010 WITH FA/2319/2010 WITH FA/2320/2010 WITH
CA/9697/2012 IN X-OBJST/20738/2012

SIDDAPPA BASWANT MALGE, DIED THR. L.RS. VIRBHADRA AND
ORS
VERSUS
THE M.I.D.C. THROUGH DIVISIONAL /REGIONAL OFFICER LATUR
AND ORS
...

907 CIVIL APPLICATION NO.4994 OF 2013
IN X-OBJST/33715/2012 WITH CA/1980/2012 IN FA/268/2012

MANJUBAI PRAVINKUMAR KHANDELWAL AND ORS
VERSUS
M/S NATIONAL INSURANCE CO. LTD.
...

908 CIVIL APPLICATION NO.5714 OF 2013
IN X-OBJST/12263/2013

USHA ANIL PATIL
VERSUS
JAYSHREE TEJRAO DHAGE AND ANR
...

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909 CIVIL APPLICATION NO.6100 OF 2013
IN X-OBJST/12774/2013

PREMSINH HAMBARSINH GIRASE(DEAD) LRS NAVALSINH
HAMBARSINH GIRASE AND ORS
VERSUS
THE EXECUTIVE ENGINEER, DHULE MEDIUM PROJET NO. 1
...

910 CIVIL APPLICATION NO.8669 OF 2013
IN X-OBJST/17159/2013

LAXMAN DAYARAM KHACHANE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER
...

911 CIVIL APPLICATION NO.10522 OF 2013
IN X-OBJST/22376/2013

ABDUL HAQ ABDUL KARIM DIED TH LRS SAMIR ABDUL HAQ
DESHMUKH AND ORS
VERSUS
THE SPECIAL LAND ACQUISITION OFFICER, DHULE AND OTHERS
...

912 CIVIL APPLICATION NO.10891 OF 2013
IN X-OBJST/22358/2013

BAHIDAS HILAL PATIL
VERSUS
THE SPECIAL LAND ACQUISITION OFFICER, DHULE AND OTHERS
...

913 CIVIL APPLICATION NO.15663 OF 2013
IN X-OBJST/29675/2013 WITH CA/6978/2010 IN FA/1953/2011

RAOSAHEB BHIMRAO JADHAV
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
...

914 CIVIL APPLICATION NO.833 OF 2014
IN X-OBJST/21367/2013

KAMALBAI GANGARAM PATIL
VERSUS
EXECUTIVE ENGINEER, MINOR IRRIGATION DIVISION, DHULE
AND ANOTHER
...

915 CIVIL APPLICATION NO.839 OF 2014

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IN X-OBJST/21377/2013

BHAUSAHEB POPAT KHAIRNAR AND ANR
VERSUS
EXECUTIVE ENGINEER, MINOR IRRIGATION DIVISION AND
ANOTHER

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916 CIVIL APPLICATION NO.840 OF 2014
IN X-OBJST/29685/2013

MAHADU RAMA BIRAJDAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

917 CIVIL APPLICATION NO.841 OF 2014
IN X-OBJST/21657/2013

SUSHILABAI RAGHUNATH KHAIRNAR
VERSUS
EXECUTIVE ENGINEER, MINOR IRRIGATION DIVISION AND
ANOTHER

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918 CIVIL APPLICATION NO.842 OF 2014
IN X-OBJST/21382/2013

HIRALAL KASHINATH PATIL AND ORS
VERSUS
EXECUTIVE ENGINEER, MINOR IRRIGATION DIVISION, DHULE
AND ANOTHER

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919 CIVIL APPLICATION NO.843 OF 2014
IN X-OBJST/21659/2013

CHANDRABHAN RAGHUNATH PATIL
VERSUS
EXECUTIVE ENGINEER, MINOR IRRIGATION DIVISION AND
ANOTHER

...

920 CIVIL APPLICATION NO.845 OF 2014
IN X-OBJST/29674/2013

BALIRAM RAMAJI BIRAJDAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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921 CIVIL APPLICATION NO.2228 OF 2014
IN X-OBJST/1788/2014

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DIWAN NIMBA GIRASE
VERSUS
THE STATE OF MAHARASHTRA & OTHERS.

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922 CIVIL APPLICATION NO.2969 OF 2014
IN X-OBJST/13645/2009 IN FA/553/2009 WITH CA/1748/2008
IN FA/553/2009

SHANTABAI ATMARAM JADHAV
VERSUS
THE STATE OF MAH AND ANR

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923 CIVIL APPLICATION NO.2970 OF 2014
IN X-OBJST/13640/2009 IN FA/548/2009 WITH CA/1726/2008
IN FA/548/2009

JAIDEV JYOTIRAM TANDLE
VERSUS
THE STATE OF MAH AND ANR

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924 CIVIL APPLICATION NO.2971 OF 2014
IN X-OBJST/13636/2009 IN FA/552/2009 WITH CA/1739/2008
IN FA/552/2009

ATMARAM SITARAM JADHAV
VERSUS
THE STATE OF MAH AND ANR

...

925 CIVIL APPLICATION NO.5138 OF 2014
IN X-OBJST/9779/2014

BABASAHEB NAMDEO KADAM DECEASED THRO. LRS. SATYAPREM
BABASAHEB KADAM
VERSUS
GODAVARI MARATHWADA IRRIGATION DEVELOPMENT CORPORATION,
BEED AND ANOTHER

...

926 CIVIL APPLICATION NO.5139 OF 2014
IN X-OBJST/9787/2014

GHANSHAYM BHAURAO PAITHANE DECEASED THRO. LRS. BANSI
GHANSHYAM PAITHANE AND OTHER
VERSUS
GODAVARI MARATHWADA IRRIGATION DEVELOPMENT CORPORATION,
BEED AND ANOTHER

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927 CIVIL APPLICATION NO.8284 OF 2014
IN X-OBJST/9785/2014

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RAMESHSWAR NAMDEO PAITHANE AND AND OTHERS
VERSUS
GODAVARI MARATHWADA IRRIGATION DEVELOPMENT
CORPORATION , BEED AND ANOTHER

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928 CIVIL APPLICATION NO.11965 OF 2014
IN X-OBJST/28116/2014

NANABHAU RAGHO BEDSE
VERSUS
EXECUTIVE ENGINEER MEDIUM PROJECT DIVISION NO.1 AND
ANOTHER

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929 CIVIL APPLICATION NO.12149 OF 2014
IN X-OBJST/28114/2014

SUNDARBAI RAGHO BEDSE SINCE DECEASED THROUGH LRS
NANBAHU RAGHO BEDSE
VERSUS
EXECUTIVE ENGINEER MEDIUM PROJECT DIVISION NO.1 DHULE
AND ANOTHER

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930 CIVIL APPLICATION NO.309 OF 2015
IN X-OBJST/27052/2014

SURESH NATHU PATIL
VERSUS
THE EXECUTIVE ENGINEER MINOR IRRIGATION DIVISION DHULE
AND ANOTHER

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931 CIVIL APPLICATION NO.2497 OF 2015
IN X-OBJST/22823/2014

VISHWAS ANANDA DESALE
VERSUS
THE SPECIAL LAND ACQUISITION OFFICER GENERAL AND
ANOTHER

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932 CIVIL APPLICATION NO.4123 OF 2015
IN X-OBJST/6013/2015 WITH CA/15665/2013 IN FA/46/2013

SHRIKANT SHRIPATI LOKHANDE
VERSUS
GMIDC THROUGH EXECUTIVE ENGINEER LIFT IRRIGATION
DIVNOSMANABAD AND OTHERS

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933 CIVIL APPLICATION NO.5485 OF 2015
IN X-OBJST/23342/2014

NOOR MOHAMMAD CHINDHA DESHMUKH
VERSUS
THE SPECIAL LAND ACQUISITION OFFICER DHULE AND OTHERS
...

934 CIVIL APPLICATION NO.7681 OF 2015
IN X-OBJST/6015/2015

WALMIK SHRIPATI LOKHANDE
VERSUS
GMIDC THROUGH EXECUTIVE ENGINEER LIFT IRRIGATION
DIVNOSMANABAD
...

935 CIVIL APPLICATION NO.7688 OF 2015
IN X-OBJST/6017/2015

DHONDIBA SHRIPATI LOKHANDE
VERSUS
GMIDC THROUGH EXECUTIVE ENGINEER LIFT IRRIGATION
DIVNOSMANABAD AND OTHERS
...

936 CIVIL APPLICATION NO.9684 OF 2015
IN X-OBJST/12499/2015

NARMADABAI HIRALAL GUJARATHI DIED THR L.RS. NARAYAN
MOHANLAL GUJARATHI
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
...

937 CIVIL APPLICATION NO.14942 OF 2015
IN X-OBJST/33283/2015

BHAGWAN DEVIDAS NARWADE
VERSUS
THE STATE OF MAH AND ORS
...

938 CIVIL APPLICATION NO.6251 OF 2016
IN X-OBJST/6580/2016

KAJAL SUBHASH KAMBLE
VERSUS
LATUR SOLVENT PVT. LTD. THR ITS PROP. SHAMTILAL
KISHANLAL SHABU AND ORS
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939 CIVIL APPLICATION NO.6264 OF 2016
IN X-OBJST/25971/2015

GULAM DASTGIR DAUDSAHEB ANSARI AND ORS
VERSUS
THE STATE OF MAHARASHTRA

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940 CIVIL APPLICATION NO.8475 OF 2016
IN X-OBJST/4473/2016 WITH CA/6107/2013 IN FA/1703/2015
WITH CA/6110/2013 IN FA/1704/2015 WITH CA/6112/2013 IN
FA/1708/2015 WITH CA/6114/2013 IN FA/1706/2015 WITH
CA/6116/2013 IN FA/1707/2015 WITH CA/6118/2013 IN
FA/1712/2015 WITH CA/6120/2013 IN FA/1711/2015 WITH
CA/6122/2013 IN FA/1710/2015 WITH CA/6124/2013 IN
FA/1709/2015 WITH CA/6126/2013 IN FA/1705/2015 WITH
CA/8477/2016 IN X-OBJST/4486/2016 WITH CA/8478/2016 IN
X-OBJST/4495/2016 WITH CA/8479/2016 IN X-
OBJST/4476/2016 WITH CA/8480/2016 IN X-OBJST/4471/2016
WITH CA/8481/2016 IN X-OBJST/4478/2016 WITH
CA/8482/2016 IN X-OBJST/4489/2016 WITH CA/8483/2016 IN
X-OBJST/4492/2016 WITH CA/8484/2016 IN X-
OBJST/4481/2016 WITH CA/8485/2016 IN X-OBJST/4484/2016

BHASKAR RAMKISHAN KOMPLE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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941 CIVIL APPLICATION NO.8486 OF 2016
IN X-OBJST/10455/2016

SUBHASH GYANOBA JADHAV DIED THR LRS NIRMALABAI AND ORS
VERSUS
THE STATE OF MAHARASHTRA AND ANR

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942 CIVIL APPLICATION NO.8488 OF 2016
IN X-OBJST/10453/2016

WAMAN GYANOBA JADHAV AND ORS
VERSUS
THE STATE OF MAHARASHTRA AND ANR

...

943 CIVIL APPLICATION NO.8489 OF 2016
IN X-OBJST/10461/2016

VAIJANATH HAVGIRAO BIRADAR
VERSUS
THE STATE OF MAHARASHTRA AND ANR

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944 CIVIL APPLICATION NO.8490 OF 2016
IN X-OBJST/10447/2016

GANPAT BAPURAO MANDUMALE
VERSUS
THE STATE OF MAHARASHTRA AND ANR

...

945 CIVIL APPLICATION NO.8499 OF 2016
IN X-OBJST/10459/2016

VASANTRAO BAPURAO SAGAR
VERSUS
THE STATE OF MAHARASHTRA AND ANR

...

946 CIVIL APPLICATION NO.8500 OF 2016
IN X-OBJST/10465/2016

SHANKAR BAPURAO MANDUMALE SAGAR AND ORS
VERSUS
THE STATE OF MAHARASHTRA AND ANR

...

947 CIVIL APPLICATION NO.8502 OF 2016
IN X-OBJST/10451/2016

VITHAL HANMANTRAO KINE
VERSUS
THE STATE OF MAHARASHTRA AND ANR

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948 CIVIL APPLICATION NO.8503 OF 2016
IN X-OBJST/10467/2016

SAMBHAJI MAROTI PATIL (JADHAV) AND ORS
VERSUS
THE STATE OF MAHARASHTRA AND ANR

...

949 CIVIL APPLICATION NO.8505 OF 2016
IN X-OBJST/10463/2016

ASHOK AMRUTRAO MORE AND ORS
VERSUS
THE STATE OF MAHARASHTRA AND ANR

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950 CIVIL APPLICATION NO.8506 OF 2016
IN X-OBJST/10457/2016

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KASHINATH HAVGIRAO BIRADAR
VERSUS
THE STATE OF MAHARASHTRA AND ANR
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951 CIVIL APPLICATION NO.8507 OF 2016
IN X-OBJST/10469/2016

PRABHU GYANOBA MORE
VERSUS
THE STATE OF MAHARASHTRA AND ANR
...

952 CIVIL APPLICATION NO.8508 OF 2016
IN X-OBJST/10449/2016

NAMDEO VENKATRAO JADHAV
VERSUS
THE STATE OF MAHARASHTRA AND ANR
...

953 CIVIL APPLICATION NO.9916 OF 2016
IN X-OBJST/16677/2016

SHANKUNTALABAI KISHAN SONAWANE AND OTHERS
VERSUS
GODAWARI MARATHWADA IRRIGATION DEVELOPMENT
CORPORATION AURANGABAD THROUGH ITS EXE
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Advocate for Applicants : Respective counsel present
S/Shri AM Phule, PM Kulkarni and SJ Salgare, AGPs for
Respondent-State (in respective matters)
Respective Counsel for Respondent/s present

CORAM : P.R. BORA, J.
DATED : 26th February, 2019.

PER COURT:-

1. All these applications are filed seeking condonation of delay, which has occurred in filing the cross-objections by the respective original claimants in respective appeals. The appeals are filed either by the acquiring body or by the State

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Government against the judgments and Awards passed in Land Acquisition References (LARs). The period of delay varies in every application. In some applications when the delay is of a shorter period, delay caused in some of the matters is of a huge period. In every application attempt has been made to justify the said delay and variety of reasons are assigned.

2. Under Sub-rule (1) of Rule 22 of Order 41 of the Code of Civil Procedure (for short the Code), a power has been conferred upon the Appellate Court to extend the time to file cross-objection. The Appellate court can grant such further time as it may seem fit to allow.

3. The issue as about condonation of delay in filing the cross-objection was for consideration before this Court in the case of State of Maharashtra Vs. Kalu Ladku Mhatre - 2011 (4) Mh.L.J. 741. I deem it appropriate to reproduce herein below the discussion made by this court in regard to the said issue in paras 5 to 7 of the said judgment, which read thus, -

"5. I have given careful consideration to the submissions. The first issue is regarding the condonation of delay in filing the Cross Objection. A Reference will have to be made to Sub Rule (1) of Rule 22 of Order XLI of the said Code which reads thus:

" Any respondent, though he may not have appealed from any part of the decree, may not only support the decree [but may also state that the finding against him in the Court below in respect of any issue ought to have been in his favour; and may also take any cross-objection] to the decree which he could have taken by way of appeal, provided he has filed such objection in the Appellate Court within one month from the date of service on him or his pleader of notice of the day fixed for hearing the appeal, or within such further time as the Appellate Court may see fit to allow."

6. Thus, under Sub Rule (1) of Rule 22 of Order XLI of the said Code, a power has been conferred upon the Appellate Court to extend the time to file Cross Objection. The Appellate Court can grant such further time as it may see fit to allow. The Sub-Rule (1) of Rule 22 does not lay down that sufficient cause is required to be shown by the respondent. As the said Code vests the power to extend the time to file Cross-Objection in the Appellate Court, it is not at all necessary for the respondent in Appeal to invoke [Section 5](#) of the Limitation Act, 1963. [Section 5](#) of the Limitation Act reads thus:

"Extension of prescribed period of certain cases - Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908, may be admitted after the prescribed period, if the appellant or the applicant satisfied the Court that

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he had sufficient cause for not preferring the appeal or making the application within such period."

7. The last part of Sub Rule (1) of Rule 22 of Order XLI deals with the grant of extension of time for filing of Cross Objection and Section 5 of the Limitation Act deals with the extension of time to prefer an Appeal. Section 5 of the Limitation Act incorporates a condition precedent of the appellant satisfying the Appellate Court that he had sufficient cause for not preferring the Appeal within the prescribed period of limitation. Sub Rule (1) of Rule 22 of Order XLI does not incorporate the stringent requirement of establishing a sufficient cause. Thus, a wide power to extend the time to file Cross-Objection has been vested in the Appellate Court. Though there is no requirement of establishing sufficient cause within the meaning of Section 5 of the Limitation Act, in the application for seeking extension of time to file Cross-Objection, brief reasons for delay will have to be set out. A wider discretion has been conferred on the Appellate Court under the Sub Rule (1) of Rule 22 than what is conferred by Section 5 of the Limitation Act. The power to extend time under Sub Rule (1) of Rule 22 of Order XLI of the Code has to be liberally exercised in case where a Cross-Objection is sought to be filed before the Appeal is heard for final hearing."

4. In the aforesaid matter, First Appeal which was filed in the year 2002 was listed on Board for final hearing, for the first time, in June 2011. Thereafter cross-objection was filed. The reason, as was assigned in justification of the

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delay caused in preferring the application was that, the respondent had instructed his Advocate to file the cross-objection, however, he was informed that the court fees is required to be paid and for various reasons the court fees could not be arranged by the said respondent.

5. In the matters which are before this Court for consideration, similar reasons are assigned by the respective respondents-claimants in justification of the delay caused in filing the cross-objections by them. As observed by this Court in the cited judgment, sub-rule (1) of Rule 22 of Order 41 of the Code does not incorporate the stringent requirement of establishing a sufficient cause. This Court has further observed in the cited judgment that a wide power to extend time to file cross-objection has been vested in the Appellate court. It has also observed that the power to extend the time under sub-rule (1) of Rule 22 of Order 41 of the Code has to be liberally exercised in a case where cross-objection is sought to be filed before the appeal is listed for final hearing. Having regard to the view taken by this

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Court in the case cited supra, though I am inclined to condone the delay, while exercising such discretion in favour of the respondents-claimants, it appears to me that since the respondents-claimants did not file the cross-objection within the period as stipulated in sub-rule (1) of Rule 22 of Order 41 of the Code, it would not be unjust and improper if they are disentitled of the interest for the period of delay in the event their cross-objections are allowed and consequently the amount of compensation is enhanced on the said enhanced amount of compensation.

6. In the result, following order is passed,

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ORDER

i. The delay occasioned in filing the cross-objections by the respective respondents-claimants in the respective appeals, is condoned.

ii. The cross-objections be registered in accordance with law.

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ii. It is clarified that in the event of their success in the cross-objections, resulting in enhancement in the amount of compensation, the respondents-claimants shall not be entitled for the interest of the period of delay on the enhanced amount of compensation.

iii. Registry to list the respective appeals along with the cross-objections therein for final disposal in their chronology.

(P.R. BORA)
JUDGE

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