

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

**923 CIVIL APPLICATION NO. 5636 OF 2019
IN FAST/8324/2019**

THE STATE OF MAHARASHTRA AND ANOTHER
VERSUS
PADMAKAR SOPAN KHOSE AND ANOTHER

**WITH
923.1 CIVIL APPLICATION NO. 5638 OF 2019
IN FAST/8327/2019**

THE STATE OF MAHARASHTRA AND ANOTHER
VERSUS
SAHEBRAO ANANTA SHINDE (DIED)
THROUGH LRS NAVNATH AND OTHERS

**WITH
923.4 CIVIL APPLICATION NO. 5645 OF 2019
IN FAST/8339/2019**

THE STATE OF MAHARASHTRA AND ANOTHER
VERSUS
ANGAD BAPU MORE

**WITH
923.5 CIVIL APPLICATION NO. 5647 OF 2019
IN FAST/8342/2019**

THE STATE OF MAHARASHTRA AND ANOTHER
VERSUS
SOPAN NARHARI KHOSE (DIED)
THROUGH LRS PADMAKAR AND ANOTHER

**WITH
923.6 CIVIL APPLICATION NO. 5649 OF 2019
IN FAST/8345/2019**

THE STATE OF MAHARASHTRA AND ANOTHER
VERSUS
KONDIBA DEVBA MORE (DIED)
THROUGH LRS TUKARAM AND ANOTHER

**WITH
923.7 CIVIL APPLICATION NO. 5651 OF 2019
IN FAST/8348/2019**

THE STATE OF MAHARASHTRA AND ANOTHER
VERSUS
TRIMBAK BAPU MORE

WITH
923.8 CIVIL APPLICATION NO. 5653 OF 2019
IN FAST/8330/2019

THE STATE OF MAHARASHTRA AND ANOTHER
VERSUS
NAVNATH BAPU MORE

WITH
923.9 CIVIL APPLICATION NO. 5655 OF 2019
IN FAST/8336/2019

THE STATE OF MAHARASHTRA AND ANOTHER
VERSUS
SUDAMATI MACHINDRA SHINDE

WITH
923.10 CIVIL APPLICATION NO. 5657 OF 2019
IN FAST/8333/2019

THE STATE OF MAHARASHTRA AND ANOTHER
VERSUS
ATMARAM NAMDEO SHINDE (DIED)
THROUGH LRS PANDIT

AGP for Appellants : Mr. R.B. Bagul.
Advocate for Respondents : Mr. S.A. Wakure.

CORAM : MANGESH S. PATIL, J.
DATE : 05.12.2019

PER COURT :

1. Heard both the sides.
2. These are the applications under Section 5 of the Limitation Act, for condonation of delay filed by the State / acquiring body.

3. Learned AGP submits that the delay has been properly explained in all these applications. Some time was spent because of the Government Resolutions and Corrigenda, whereby, the Government has resolved not to file appeal when the rate awarded by the reference Court is within certain parameters. Each of these matters, therefore, will have to be reconsidered with several other matters wherein the appeals could be preferred. It is only thereafter the decision was taken after the detailed scrutiny to file the appeal and all these circumstances resulted in delay in filing the appeals.

4. The learned AGP further submits that considering the burden caused upon the acquiring body to pay interest at a rate which is nowhere prevalent in the market, there could be no ulterior motive attributable to it in not preferring the appeal in time. The delay would add to the burden of interest. It is under these circumstances when there is a genuine case for the acquiring body to impugn the judgment and award passed by the reference Court, it would be appropriate to condone the delay and decide the matters on merits. The learned AGP would submit that the claimants would withdraw the amount deposited in the Court pursuant to the conditional orders passed while granting stay to the execution of impugned awards. Therefore no serious prejudice is likely to be caused to them, if delay is condoned.

5. The learned advocate for the claimants strongly opposes the application. He submits that the delay is enormous. Accepting all the procedural impediments for any organization to take decision in such matters, still the period of the delay is enormous. In spite of having obtained an order of stay subject to the condition of depositing amount under the award, the condition has not been fulfilled. The appellants have lost their source of earning and the application may be rejected.

6. Bearing in mind the principles laid down in the case of *Collector, Land Acquisition, Anantnag Vs. Mst. Katiji*, **1987 AIR (SC) 1353**, and several other judgments, the foremost circumstance that needs to be borne in mind is that apparently there is no basis to draw an inference that the delay is occasioned / caused with some ulterior motive. This being the main consideration, in the absence of which, coupled with the fact that the appellant - acquiring body will not gain anything by causing the delay, rather it would stand to lose on account of its liability to pay interest at an alarming rate under the statutory provisions, the delay deserves to be condoned.

7. Considering the grounds mentioned in the application and all the aforementioned facts and circumstances and the principles laid down, the delay deserves to be condoned, however, by imposing some cost.

8. The applications are allowed. The delay is condoned in each of these matters subject to the condition that the appellant / acquiring body deposits in each of these matters Rs. 5,000/- as cost within ten weeks.

(MANGESH S. PATIL, J.)

S.P.C.