

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

965 CIVIL APPLICATION NO.14119 OF 2018
IN X-OBJST/31308/2018 WITH CA/1236/2015 IN FA/219/2016

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966 CIVIL APPLICATION NO.291 OF 2019
IN X-OBJST/28431/2017

...
967 CIVIL APPLICATION NO.326 OF 2019
IN X-OBJST/14285/2018

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968 CIVIL APPLICATION NO.327 OF 2019
IN X-OBJST/14281/2018

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969 CIVIL APPLICATION NO.328 OF 2019
IN X-OBJST/8603/2018

...
970 CIVIL APPLICATION NO.341 OF 2019
IN X-OBJST/14275/2018

...
971 CIVIL APPLICATION NO.779 OF 2019
IN X-OBJST/36298/2018

...
972 CIVIL APPLICATION NO.1184 OF 2019
IN X-OBJST/4337/2018

...
973 CIVIL APPLICATION NO.1959 OF 2019
IN X-OBJST/26592/2016

...
974 CIVIL APPLICATION NO.1960 OF 2019
IN X-OBJST/14288/2018

...
975 CIVIL APPLICATION NO.1962 OF 2019
IN X-OBJST/37698/2018

...
976 CIVIL APPLICATION NO.1964 OF 2019
IN X-OBJST/20688/2018 WITH CA/7756/2016 IN FA/179/2018

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977 CIVIL APPLICATION NO.1965 OF 2019
IN X-OBJST/20714/2018 WITH CA/7760/2016 IN FA/180/2018

...
978 CIVIL APPLICATION NO.1966 OF 2019
IN X-OBJST/20459/2018 WITH CA/7750/2016 IN FA/173/2018

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979 CIVIL APPLICATION NO.1967 OF 2019
IN X-OBJST/20678/2018 WITH CA/7758/2016 IN FA/178/2018

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980 CIVIL APPLICATION NO.1968 OF 2019
IN X-OBJST/20685/2018 WITH CA/7762/2016 IN FA/177/2018

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981 CIVIL APPLICATION NO.1969 OF 2019
IN X-OBJST/20469/2018 WITH CA/7764/2016 IN FA/174/2018

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982 CIVIL APPLICATION NO.1970 OF 2019
IN X-OBJST/20682/2018 WITH CA/7754/2016 IN FA/176/2018

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983 CIVIL APPLICATION NO.1971 OF 2019
IN X-OBJST/20473/2018 WITH CA/7752/2016 IN FA/175/2018

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984 CIVIL APPLICATION NO.1972 OF 2019
IN X-OBJST/13310/2018 WITH CA/5391/2015 IN FA/2292/2016

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985 CIVIL APPLICATION NO.1973 OF 2019
IN X-OBJST/14290/2018

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986 CIVIL APPLICATION NO.1974 OF 2019
IN X-OBJST/13041/2018

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987 CIVIL APPLICATION NO.2171 OF 2019
IN X-OBJST/39749/2018

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988 CIVIL APPLICATION NO.2173 OF 2019
IN X-OBJST/39755/2018

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989 CIVIL APPLICATION NO.2175 OF 2019
IN X-OBJST/25978/2018

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990 CIVIL APPLICATION NO.2176 OF 2019
IN X-OBJST/25982/2018

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991 CIVIL APPLICATION NO.2177 OF 2019
IN X-OBJST/25975/2018

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992 CIVIL APPLICATION NO.2416 OF 2019
IN X-OBJST/4268/2019

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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

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CORAM : P.R. BORA, J.
DATED : 01st March, 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 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 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 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 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, -

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

(P.R. BORA)
JUDGE