

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

**CIVIL APPLICATION NO.16011 OF 2013
WITH FAST/23879/2013**

**DIGAMBAR MANIKRAO KALYANKAR
VERSUS**

THE STATE OF MAHARASHTRA AND ANOTHER

**WITH CA/16010/2013 WITH FAST/23907/2013 WITH
CA/16012/2013 WITH FAST/23916/2013 WITH CA/16013/2013
WITH FAST/23897/2013**

Mr. A.S. Deshpande, Advocate for the applicants
Mr. K.N. Lokhande, AGP for the respondent/State.

**CORAM : S.M.GAVHANE, J.
DATED : 20.02.2019**

P.C. :-

1. Heard learned counsel for the applicants.
2. In all the applications applicants have sought to condone 49 days delay caused in filing appeal against the common judgment and award dated 08.04.2013, passed by Civil Judge, Senior Division, Latur in L.A.R. Nos. 664 of 2009, 663 of 2009, 665 of 2009 and 666 of 2009.
3. Learned counsel for the applicants in all the applications inviting my attention to the grounds mentioned in paragraph Nos.5 and 6 submitted that award was passed on 08.04.2013. Applicants came to know about the award in the first week of May, 2013, thereafter application was filed for copy of judgment and award and same was received on 02.05.2013. The applicants ought to have filed appeal within 90 days, but for filing the

appeal, there were huge expenses including depositing the Court fees and legal fees etc. Economical position of the applicants was not sound due to the draught situation. After obtaining the copy of the judgment and award, applicants approached their Advocate to file first appeals. Advocate advised them to come with all necessary documents after completion of summer vacation. The applicants are agriculturists. They were busy in agricultural operations in the month of June. Thus, after rainy season, they were busy in agricultural operation. Thereafter, they could approach this Hon'ble Court to file appeals and as such delay has been caused. It is submitted that the delay caused is not intentional and the same is bonafide. It needs to be condoned in the interest of justice. Learned counsel relied upon judgment reported in **AIR 1987, SC 1353**. Thus, it is submitted that delay caused in filing all the four appeals be condoned by allowing the applications.

4. Learned counsel for the applicants has submitted that State has also filed appeal aggrieved by the common judgment and award dated 08.04.2013 challenged by these applicants, bearing No. 1668 of 2014 and said appeal has been admitted.

5. Though the learned AGP for the respondent/State has opposed to grant the application, considering the submissions made by the learned counsel for the applicants and the grounds of delay mentioned earlier

and fact that State has also filed appeal aggrieved by the award dated 08.04.2013 which is under challenge in these appeals at the instance of the applicants, I find that applicants have properly explained the delay and there is sufficient ground to condone said delay in filing the appeals and it needs to be condoned in the interest of justice. Therefore, all the applications are allowed and delay caused in filing the appeals is condoned.

6. All appeals be registered. On registering the appeals, issue notice to the respondents, returnable on 03.04.2019.

7. Learned AGP waives service of notice before admission of the appeals for the respondent/State.

8. Call record and proceedings in LAR Nos.664 of 2009, 663 of 2009, 665 of 2009 and 666 of 2009 from the Court of Civil Judge, Senior Division, Latur.

[S.M.GAVHANE, J.]