

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

914 CIVIL APPLICATION NO.9918 OF 2016
IN X-OBJST/16672/2016

NARAYAN MALIBA TANDALE AND OTHERS
VERSUS
GODAWARI MARATHWADA IRRIGATION DEVELOPMENT
CORPORATION AURANGABAD THR ITS EXE ENG

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915 CIVIL APPLICATION NO.9920 OF 2016
IN X-OBJST/16672/2016

SHESHRAO NAGORAO KADAM
VERSUS
M.I.D.C. A CORPORATE BODY THROUGH DIVISI.OFFICER,LATUR

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916 CIVIL APPLICATION NO.10103 OF 2016
IN X-OBJST/16668/2016

SHESHABAI BHAGUJI TANDALE AND OTHERS
VERSUS
GODAWARI MARATHWADA IRRIGATION DEVELOPMENT
CORPORTIONAURANGABAD THR EXE ENGINEER

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917 CIVIL APPLICATION NO.10118 OF 2016
IN X-OBJST/31630/2015 WITH CA/10114/2016 IN X-
OBJST/31626/2015 WITH CA/10115/2016 IN X-
OBJST/31613/2015 WITH CA/10116/2016 IN X-
OBJST/31601/2015 WITH CA/10117/2016 IN X-
OBJST/31634/2015

DNYANESHWAR BHAURAO PAWAR
VERSUS
THE STATE OF MAHARASHTRA AND ANR

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918 CIVIL APPLICATION NO.15857 OF 2016
IN X-OBJST/27970/2016

NAMDEO TATYARAO KHOCHARE
VERSUS
THE STATE OF MAHARASHTRA

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919 CIVIL APPLICATION NO.214 OF 2017
IN X-OBJST/27765/2016 WITH CA/4939/2013 IN FA/216/2015
WITH CA/4941/2013 IN FA/223/2015 WITH CA/4945/2013 IN
FA/225/2015 WITH CA/4947/2013 IN FA/227/2015 WITH
CA/4953/2013 IN FA/217/2015 WITH CA/4956/2013 IN
FA/218/2015 WITH CA/4959/2013 IN FA/219/2015 WITH
CA/4961/2013 IN FA/220/2015 WITH CA/4963/2013 IN
FA/221/2015 WITH CA/4965/2013 IN FA/222/2015 WITH
CA/205/2017 IN X-OBJST/27770/2016 WITH CA/206/2017 IN X-
OBJST/27772/2016 WITH CA/207/2017 IN X-OBJST/27776/2016
WITH CA/208/2017 IN X-OBJST/27778/2016 WITH CA/209/2017
IN X-OBJST/27774/2016 WITH CA/210/2017 IN X-
OBJST/27759/2016 WITH CA/211/2017 IN X-OBJST/27761/2016
WITH CA/212/2017 IN X-OBJST/27763/2016 WITH CA/213/2017
IN X-OBJST/28340/2016

BALASAHEB SHESHERAO SHINGADE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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920 CIVIL APPLICATION NO.416 OF 2017
IN X-OBJST/26468/2016

SHANKAR BHIMA CHAVAN DIED THR LRS MALABAI AND ANR
VERSUS
THE STATE OF MAHARASHTRA AND ANR

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921 CIVIL APPLICATION NO.578 OF 2017
IN X-OBJST/30174/2016

MADHAV DEVIDASRAO JADHAV THR POWER OF ATTORNEY
DEVIDAS NARAYANRAO JADHAV
VERSUS
THE STATE OF MAHARASHTRA AND ANR

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922 CIVIL APPLICATION NO.593 OF 2017
IN X-OBJST/23272/2016

LAXMAN KERBA TANDALE DIED THROUGH ITS LRS NANDUBAI
LAXMAN TANDALE AND OTHERS
VERSUS
GODAVARI MINOR IRRIGATION DEVELOPMENT CORPORATION
THRITS EXE. ENGINEER, IRRIGATI

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923 CIVIL APPLICATION NO.622 OF 2017
IN X-OBJST/39101/2016 WITH CA/685/2017 IN X-
OBJST/39101/2016

EKNATH HULA KOLI AND ORS
VERSUS
THE STATE OF MAHARASHTRA AND ANR

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924 CIVIL APPLICATION NO.758 OF 2017
IN X-OBJST/23493/2016

ASHOK ANNASHEB JADHAV AND ORS
VERSUS
GODAVARI MINOR IRRIGATION DEVELOPMENT CORPORATION
THRITS EXE. ENGINEER, IRRIGATI

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925 CIVIL APPLICATION NO.759 OF 2017
IN X-OBJST/23276/2016

DNYANOBA DHONDIBA TANDALE
VERSUS
GODAVARI MINOR IRRIGATION DEVELOPMENT CORPORATION
THRITS EXE. ENGINEER, IRRIGATI

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926 CIVIL APPLICATION NO.764 OF 2017
IN X-OBJST/23274/2016

RAJARAM BABU LAMB AND ANOTHER
VERSUS

GODAVARI MINOR IRRIGATION DEVELOPMENT CORPORATION
THRITS EXE. ENGINEER, IRRIGATI

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927 CIVIL APPLICATION NO.768 OF 2017
IN X-OBJST/24978/2016

PRABHAWATI SHIVAPPA TANWADE
VERSUS
THE STATE OF MAHARASHTRA AND ORS

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928 CIVIL APPLICATION NO.772 OF 2017
IN X-OBJST/24968/2016

CHAYABAI BASWARAJ TANWADE
VERSUS
THE STATE OF MAHARASHTRA AND ORS

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929 CIVIL APPLICATION NO.774 OF 2017
IN X-OBJST/24972/2016

SUNIL SHIVAPPA TANWADE
VERSUS
THE STATE OF MAHARASHTRA AND ORS

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930 CIVIL APPLICATION NO.775 OF 2017
IN X-OBJST/22904/2016

MAROTI BAPURAO PAWAR
VERSUS
THE STATE OF MAHARASHTRA AND ANR

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931 CIVIL APPLICATION NO.776 OF 2017
IN X-OBJST/22414/2016

VITTHAL KISHANRAO JADHAV
VERSUS
THE STATE OF MAHARASHTRA AND ANR

...

932 CIVIL APPLICATION NO.777 OF 2017
IN X-OBJST/24975/2016

DHANRAJ SHIVAPPA TANWADE
VERSUS
THE STATE OF MAHARASHTRA AND ORS

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933 CIVIL APPLICATION NO.790 OF 2017
IN X-OBJST/36793/2015 WITH CA/8560/2011 IN FA/1237/2012
WITH CA/8564/2011 IN FA/1243/2012 WITH CA/8566/2011 IN
FA/1241/2012 WITH CA/4832/2014 IN FA/1243/2012 WITH
CA/4833/2014 IN FA/1237/2012 WITH CA/4834/2014 IN
FA/1241/2012 WITH CA/793/2017 IN X-OBJST/35462/2015 WITH
CA/795/2017 IN X-OBJST/35460/2015 WITH CA/796/2017 IN X-
OBJST/36484/2015 WITH CA/797/2017 IN X-OBJST/36488/2015

PRABHAKAR MADHAV KONDANE
VERSUS
THE SPECIAL LAND ACQUISITION OFFICER, M.I.W., JALGAONAND
ANR

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934 CIVIL APPLICATION NO.799 OF 2017
IN X-OBJST/6302/2016 WITH CA/800/2017 IN X-
OBJST/6117/2016 WITH CA/801/2017 IN X-OBJST/6112/2016
WITH CA/802/2017 IN X-OBJST/6300/2016

KARBASAPPA MAHADAPPA MITKARI DIED THR HIS LRS
SUSHILABAI AND ORS
VERSUS
UNION OF INDIA THE DY. CHIEF ENGINEER (CONSTRUCTION)
DRMS OFFICE COMPOUND CENTRAL

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935 CIVIL APPLICATION NO.816 OF 2017
IN X-OBJST/34894/2016

BHAGIRATH MADHAVRAO MENKUDALE
VERSUS
EXECUTIVE ENGINEER, LATUR MINOR IRRIGATION DIVISION,
LATUR UNDER GMIDC AURANGABAD

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936 CIVIL APPLICATION NO.822 OF 2017
IN X-OBJST/34865/2016

UMAKANT TRIMBAK MAHAJAN
VERSUS
EXECUTIVE ENGINEER, LATUR MINOR IRRIGATION DIVISION,
LATUR UNDER GMIDC AURANGABAD

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937 CIVIL APPLICATION NO.1158 OF 2017
IN X-OBJST/23264/2016 WITH CA/6454/2014 IN FA/1029/2013
WITH CA/2528/2015 IN FA/1029/2013

RAMA NANA TANDALE DIED THR ITS LRS PANDURANG AND ORS
VERSUS
GODAVARI MINOR IRRIGATION DEVELOPMENT CORPORATION
THRITS EXE. ENGINEER, IRRIGATI

...

938 CIVIL APPLICATION NO.1734 OF 2017
IN X-OBJST/16227/2016 WITH CA/1735/2017 IN X-
OBJST/16225/2016 WITH CA/1736/2017 IN X-OBJST/16223/2016
WITH CA/1737/2017 IN X-OBJST/16221/2016

KALYAN BHASKARRAO MANE
VERSUS
THE EXECUTIVE ENGINEER, MINOR IRRIGATION
DIVISION, BEED AND ANR

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939 CIVIL APPLICATION NO.1812 OF 2017
IN X-OBJST/26466/2016

RAJU DEVIDAS CHAVAN
VERSUS
THE STATE OF MAHARASHTRA THR. COLLECTOR, LATUR AND
ANR

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940 CIVIL APPLICATION NO.2596 OF 2017
IN X-OBJST/34642/2016

GIRIDHAR BHANUDAS PULLE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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941 CIVIL APPLICATION NO.3033 OF 2017
IN X-OBJST/5012/2017 WITH CA/3034/2017 IN X-
OBJST/5017/2017 WITH CA/3035/2017 IN X-OBJST/4987/2017
WITH CA/3036/2017 IN X-OBJST/4985/2017 WITH CA/3037/2017
IN X-OBJST/5033/2017 WITH CA/3038/2017 IN X-
OBJST/4967/2017 WITH CA/3039/2017 IN X-OBJST/4996/2017
WITH CA/3041/2017 IN X-OBJST/5031/2017 WITH CA/3042/2017
IN X-OBJST/5026/2017 WITH CA/3043/2017 IN X-
OBJST/5035/2017 WITH CA/3044/2017 IN X-OBJST/5019/2017
WITH CA/3045/2017 IN X-OBJST/4965/2017 WITH CA/3046/2017
IN X-OBJST/4991/2017 WITH CA/3047/2017 IN X-
OBJST/4994/2017

VIRBHADRA SAMBHA BELURE (DIED) LRS MATHURABAI
VIRBHADRA BELURE
VERSUS
THE EXECUTIVE ENGINEER, MINOR IRRIGATION DIVISION LATUR
AND ORS

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942 CIVIL APPLICATION NO.4739 OF 2017
IN X-OBJST/7927/2017

SHIVAJI SAKHARAM SHENDGE
VERSUS
THE EXECUTIVE ENGINEER, LATUR MEDIUM PROJECT DIV.
ANDANR

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943 CIVIL APPLICATION NO.4743 OF 2017
IN X-OBJST/7939/2017

DIGAMBAR SAKHARAM SHENDGE
VERSUS
THE EXECUTIVE ENGINEER, LATUR MEDIUM PROJECT DIV. LATUR
AND ANR

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944 CIVIL APPLICATION NO.4745 OF 2017
IN X-OBJST/7942/2017

NARHARI EKNATH SIRSATH
VERSUS
THE EXECUTIVE ENGINEER, LATUR MEDIUM PROJECT DIV. LATUR
AND ANR

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945 CIVIL APPLICATION NO.4746 OF 2017
IN X-OBJST/38130/2016

BHIKA DASHRATH PATIL AND ORS
VERSUS
THE STATE OF MAHARASHTRA AND ANR

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946 CIVIL APPLICATION NO.4766 OF 2017
IN X-OBJST/7919/2017

VENKAT PANDHARI SIRSAT
VERSUS
THE EXECUTIVE ENGINEER, LATUR MEDIUM PROJECT DIV. LATUR
AND ANR

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947 CIVIL APPLICATION NO.4778 OF 2017
IN X-OBJST/9638/2017

HARISHCHANDRA GOVIND SIRSAT AND ORS
VERSUS
THE EXECUTIVE ENGINEER, LATUR MEDIUM PROJECT
DIVISION LATUR AND ANR

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948 CIVIL APPLICATION NO.4784 OF 2017
IN X-OBJST/4975/2017

GANESH TRIMBAK HINGNE AND ORS
VERSUS
THE EXECUTIVE ENGINEER, MINOR IRRIGATION DIVISION LATUR
AND ORS

949 CIVIL APPLICATION NO.4794 OF 2017
IN X-OBJST/7925/2017

BHANUDAS BAPURAO SHENDGE
VERSUS
THE EXECUTIVE ENGINEER, LATUR MEDIUM PROJECT DIV. LATUR
AND ANR

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950 CIVIL APPLICATION NO.4808 OF 2017
IN X-OBJST/7929/2017

MAHADU RAM SIRSAT
VERSUS
THE EXECUTIVE ENGINEER, LATUR MEDIUM PROJECT DIV. LATUR
AND ANR

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951 CIVIL APPLICATION NO.4972 OF 2017
IN X-OBJST/10088/2017 WITH CA/2996/2012 IN FA/176/2013
WITH CA/3013/2012 IN FA/160/2013 WITH CA/3027/2012 IN
FA/168/2013 WITH CA/3037/2012 IN FA/171/2013 WITH
CA/3041/2012 IN FA/191/2013 WITH CA/3046/2012 IN
FA/173/2013 WITH CA/3049/2012 IN FA/167/2013 WITH
CA/13397/2017 IN X-OBJST/7877/2017 WITH CA/13400/2017 IN
X-OBJST/7874/2017 WITH CA/13402/2017 IN X-OBJST/7871/2017
WITH CA/13403/2017 IN X-OBJST/7978/2017 WITH
CA/13416/2017 IN X-OBJST/7980/2017 WITH CA/13417/2017 IN
X-OBJST/7976/2017

SANDIPAN EKNATH SIRSAT
VERSUS
THE EXECUTIVE ENGINEER LATUR MEDIUM PROJECT DIVISION
LATUR AND ANR

...

952 CIVIL APPLICATION NO.5018 OF 2017
IN X-OBJST/7851/2017 WITH CA/2968/2012 IN FA/179/2013

SAMBHAJI TUKARAM GITE
VERSUS
THE EXECUTIVE ENGINEER, LATUR MEDIUM PROJECT DIVISION,
LATUR AND ANR

953 CIVIL APPLICATION NO.5019 OF 2017
IN X-OBJST/10416/2017 WITH CA/10194/2013 IN FA/3103/2013

NILKANTH VISHWANATH SONWANE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER
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954 CIVIL APPLICATION NO.5037 OF 2017
IN X-OBJST/5037/2017

SANGRAM VALJNATH WADKAR
VERSUS
THE EXECUTIVE ENGINEER, MINOR IRRIGATION DIVISION LATUR
AND ORS
...

955 CIVIL APPLICATION NO.5038 OF 2017
IN X-OBJST/5023/2017

RAGHUNATH BHUJANG WADKAR AND ANR
VERSUS
THE EXECUTIVE ENGINEER, MINOR IRRIGATION DIVISION LATUR
AND ORS
...

956 CIVIL APPLICATION NO.5039 OF 2017
IN X-OBJST/4989/2017

MAHADAV PRABHAKAR HINGNE
VERSUS
THE EXECUTIVE ENGINEER, MINOR IRRIGATION DIVISION LATUR
AND ORS
...

957 CIVIL APPLICATION NO.5040 OF 2017
IN X-OBJST/4978/2017

BALAJI NAGNATH WADKAR
VERSUS
THE EXECUTIVE ENGINEER, MINOR IRRIGATION DIVISION LATUR
AND ORS

958 CIVIL APPLICATION NO.5041 OF 2017
IN X-OBJST/5039/2017

RAJENDRA VIRBHADRA GHUME
VERSUS
THE EXECUTIVE ENGINEER MINOR IRRIGATION DIVN LATUR
(GMIDC) AND ORS
...

959 CIVIL APPLICATION NO.5042 OF 2017
IN X-OBJST/5004/2017

VIDHYASAGAR DIGAMBAR HINGANE AND ORS
VERSUS
THE EXECUTIVE ENGINEER, MINOR IRRIGATION DIVISION LATUR
AND ORS
...

960 CIVIL APPLICATION NO.5043 OF 2017
IN X-OBJST/4982/2017

KISHOR GANGADHAR HINGNE AND ORS
VERSUS
THE EXECUTIVE ENGINEER, MINOR IRRIGATION DIVISION LATUR
AND ORS
...

961 CIVIL APPLICATION NO.5044 OF 2017
IN X-OBJST/5002/2017

SHIRISH MANOHAR BELURE
VERSUS
THE EXECUTIVE ENGINEER, MINOR IRRIGATION DIVISION LATUR
AND ORS
...

962 CIVIL APPLICATION NO.5045 OF 2017
IN X-OBJST/5015/2017

NAGNATH MADHAV WADKAR
VERSUS
THE EXECUTIVE ENGINEER, MINOR IRRIGATION DIVISION LATUR
AND ORS

963 CIVIL APPLICATION NO.5046 OF 2017
IN X-OBJST/5000/2017

VIJAYKUMAR SHIVNAND HATTE
VERSUS
THE EXECUTIVE ENGINEER, MINOR IRRIGATION DIVISION LATUR
AND ORS

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Advocate for Applicants : Respective Counsel present
S/Shri A.M. Phule, P.M. Kulkarni and S.J. Salgare, AGPs for Respondent-
State (in respective matters)
Respective Counsel for Respondent/s present

CORAM : PR. BORA, J.
DATED : 27th 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 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

GGP