

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.12125 OF 2018
IN AOST/26206/2018
WITH CA/12127/2018 IN AOST/26206/2018

RIKHABDAS UTTAMCHAND AJMERE AND OTHER
VERSUS
GORAKH @ GORAKSHNATH ASARAM CHAVRE AND ANOTHER

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Advocate for Applicants : Shri Kulkarni Sanket S.
Advocate for Respondents 1 & 2 : Shri Patil A.S. h/f
Shri Chapalgaonkar Shailesh S.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: February 01, 2019
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PER COURT :-

1. The applicants pray for condonation of 349 days delay caused in filing the Appeal from Order.
2. I have heard the learned Advocates.
3. The respondents vehemently oppose this application and rely on the affidavit in reply to contend that the application deserves to be rejected with costs.
4. I find that, an immovable property is the subject matter of the proceedings. The delay of 349 days does not appear to be deliberate or inordinate. The applicants do not gain any advantage by delaying their

matter since it would prejudice their interest involved in an immovable property.

5. Law does not expect a litigant to explain away an each day's delay. The Honourable Apex Court in the matters of Collector, Land Acquisition Anantnag and another Vs. Mst. Katiji and others [(1987) 2 SCC 107], and Esha Bhattacharjee Vs. Managing Committee of Raghunathpur Nafar Academy and others [(2013) 12 SCC 649], has crystallized the position that if ulterior motives or laches are attributable to the conduct of the applicant and if he is likely to derive an undue advantage, no relief would be granted.

6. In the instant case, I do not find laches or oblique motives being attributed to their conduct.

7. On costs, learned Advocate for the applicants submits that each applicants would deposit costs of Rs.1,000/-. Learned Advocate for the respondents submits that they would accept a nominal costs of Rs.4,000/- and donate the remaining Rs. 3,000/- for the treatment of poor patients.

8. It cannot be ignored that if delay is not condoned, these applicants would be remediless.

9. In view of the above, this application is allowed. The seven applicants shall deposit a total amount of Rs.7,000/- in this Court on/or before 22.2.2019. The respondents shall receive / withdraw an amount of Rs.2,000/- each and the Registry shall transmit the remaining amount of Rs.3,000/- to the Government Medical College and Hospital, Aurangabad, **through Medical Officer, High Court Dispensary, Aurangabad**, by Demand Draft (Demand Draft be drawn in the name of **“Dean, Government Medical College and Hospital Dengi Samiti, Aurangabad”**).

10. On the condition of removing all office objections and compliance of the above direction, the Appeal from Order shall be listed for admission hearing on 4.3.2019.

11. Learned Advocate appearing for the respondents causes an appearance in Appeal from Order.

(RAVINDRA V. GHUGE, J.)

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