

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

**922 CIVIL APPLICATION NO.5048 OF 2017
IN X-OBJST/4998/2017**

**BHIMRAO SADASHIV TATTAPURE
VERSUS
THE EXECUTIVE ENGINEER, MINOR IRRIGATION DIVISION LATUR
AND ORS**

...

**923 CIVIL APPLICATION NO.5060 OF 2017
IN X-OBJST/5313/2017 WITH CA/5061/2017 IN X-
OBJST/5330/2017**

**NIRMALABAI MAHADAV WADKAR AND ORS
VERSUS
THE EXECUTIVE ENGINEER, MINOR IRRIGATION DIVISION LATUR
AND ORS**

...

**928 CIVIL APPLICATION NO.5833 OF 2017
IN X-OBJST/25154/2015**

**DATTU RAMCHANDRA SHINDE
VERSUS
THE STATE OF MAHARASHTRA AND ANR**

...

**929 CIVIL APPLICATION NO.6366 OF 2017
IN X-OBJST/14087/2017**

**DARBAR GAJESING AND ORS
VERSUS
THE SPECIAL LAND ACQUISITION OFFICER, UTPH-1,
JALGAON AND ANR**

...

**930 CIVIL APPLICATION NO.7289 OF 2017
IN X-OBJST/16217/2016**

UTTAM MANOHAR WAGH AND OTHERS
VERSUS
THE EXECUTIVE ENGINEER, MINOR IRRIGATION DIVISION, BEED
AND ANR

...

**931 CIVIL APPLICATION NO.7321 OF 2017
IN X-OBJST/28631/2016**

SHANKAR GANPATI LAMB DIED AND ORS
VERSUS
GODAWARI MINOR IRRIGATION DEVELOPMENT CORPORATION
THROUGH ITS EXE. ENGINEER AND ORS

...

**932 CIVIL APPLICATION NO.7396 OF 2017
IN X-OBJST/16349/2017 WITH CA/4227/2012 IN FA/677/2011**

YAMUNABAI TRYAMBAK DHANGAR
VERSUS
THE COLLECTOR, JALGAON AND ORS

...

**933 CIVIL APPLICATION NO.7494 OF 2017
IN X-OBJST/16347/2017 WITH CA/4225/2012 IN FA/682/2011**

TRYAMBAK LALCHAND DHANGAR
VERSUS
THE COLLECTOR, JALGAON AND ORS

...

**934 CIVIL APPLICATION NO.7963 OF 2017
IN X-OBJST/7933/2017**

PARWATIBAI MADHAV SIRSAT AND ORS
VERSUS
THE EXECUTIVE ENGINEER, LATUR MEDIUM PROJECT DIV. LATUR
AND ANR

...

**935 CIVIL APPLICATION NO.8538 OF 2017
IN X-OBJST/7923/2017**

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

**936 CIVIL APPLICATION NO.8540 OF 2017
IN X-OBJST/7936/2017**

SHRIRANG EKNATH SIRSAT AND ANR
VERSUS
THE EXECUTIVE ENGINEER, LATUR MEDIUM PROJECT DIV. LATUR
AND ANR
...

**937 CIVIL APPLICATION NO.8576 OF 2017
IN X-OBJST/17166/2017**

ABHIMAN BHAVSING NIKAM
VERSUS
THE COLLECTOR, JALGAON AND ORS
...

**938 CIVIL APPLICATION NO.8625 OF 2017
IN X-OBJST/28271/2016 WITH CA/9699/2012 IN FA/158/2015**

NAGORAO DIGAMBARRAO KANDHARKAR AND ORS
VERSUS
THE STATE OF MAHARASHTRA AND ORS
...

**939 CIVIL APPLICATION NO.9166 OF 2017
IN X-OBJST/7946/2017**

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

940 CIVIL APPLICATION NO.9199 OF 2017

IN X-OBJST/16343/2017 WITH CA/4226/2012 IN FA/683/2011

GOPICHAND SARICHAND JADHAV
VERSUS
THE COLLECTOR, JALGAON AND ORS

...

**941 CIVIL APPLICATION NO.9207 OF 2017
IN X-OBJST/27755/2016 WITH CA/4950/2013 IN FA/226/2015**

ASHOK SAMBHAJI SURYAWANSHI DIED THR LRS MANGALBAI
ANDORS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...

**942 CIVIL APPLICATION NO.9498 OF 2017
IN X-APLST/14143/2017**

MADHAV GANPATRAO GAWANDE AND ANR
VERSUS
MAHARASHTRA STATE ROAD TRANSPORT CORPORATION THR.
DIV.CONTROLLER, DIV. OFFICE AURANGABAD

...

**943 CIVIL APPLICATION NO.9551 OF 2017
IN X-OBJST/7931/2017**

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

...

**944 CIVIL APPLICATION NO.10012 OF 2017
IN X-OBJST/7831/2017**

HARISHCHANDRA GOVIND SIRSAT AND ANR
VERSUS
THE EXECUTIVE ENGINEER, LATUR MEDIUM PROJECT DIV.

...

**945 CIVIL APPLICATION NO.10786 OF 2017
IN X-OBJST/26890/2017**

THE COMMISSIONER, JALGAON MUNICIPAL CORPORATION
JALGAON SAHAR, JALGAON
VERSUS
SHYAM VASUDEO SARAF AND ANR

...

**946 CIVIL APPLICATION NO.13129 OF 2017
IN X-OBJST/4971/2017**

KIRAN VASANT KIVANDE
VERSUS
THE EXECUTIVE ENGINEER, MINOR IRRIGATION DIVISION LATUR
AND ORS

...

**947 CIVIL APPLICATION NO.13130 OF 2017
IN X-OBJST/4973/2017**

DHONDIRAM SHANKAR WADKAR (DIED) SHOBHA DHONDIRAM
WADKAR AND ORS
VERSUS
THE EXECUTIVE ENGINEER, MINOR IRRIGATION DIVISION LATUR
AND ORS

...

**948 CIVIL APPLICATION NO.13333 OF 2017
IN X-OBJST/9641/2017 WITH CA/8554/2011 IN FA/1239/2012
WITH CA/4745/2014 IN FA/1239/2012 WITH CA/13334/2017
IN X-OBJST/10427/2017 WITH CA/13335/2017 IN X-
OBJST/37037/2015**

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

...

**949 CIVIL APPLICATION NO.13394 OF 2017
IN X-OBJST/16305/2017**

PRMNATH VALJINATH SONVANE
VERSUS
THE STATE OF MAHARASHTRA AND ANR

...

**950 CIVIL APPLICATION NO.13395 OF 2017
IN X-OBJST/28261/2017**

BALAJI GOVIND JADHAV AND ORS
VERSUS
THE STATE OF MAH AND ANR

...

**951 CIVIL APPLICATION NO.13396 OF 2017
IN X-OBJST/37033/2015 WITH CA/8570/2011 IN FA/1236/2012
WITH CA/4829/2014 IN FA/1236/2012 WITH CA/13398/2017
IN X-OBJST/3205/2016**

DHANABAI LALCHAND PARDESHI
VERSUS
THE EXECUTIVE ENGINEER, M.I.D. JALGAON AND ANR

...

**952 CIVIL APPLICATION NO.13399 OF 2017
IN X-OBJST/32255/2016**

MANOHAR SHANKAR BEMBADE
VERSUS
THE STATE OF MAHARASHTRA AND ANR

...

**953 CIVIL APPLICATION NO.13418 OF 2017
IN X-OBJST/7861/2017**

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

...

954 CIVIL APPLICATION NO.13419 OF 2017

IN X-OBJST/7848/2017

BABU PIRAJI GITE AND ORS
VERSUS
THE EXECUTIVE ENGINEER LATUR MEDIUM PROJECT DIVISION
LATUR AND ANR
...

**955 CIVIL APPLICATION NO.13428 OF 2017
IN X-OBJST/7835/2017 WITH CA/3011/2012 IN FA/164/2013**

GANGADHAR GANPATI GITE
VERSUS
THE EXECUTIVE ENGINEER, LATUR MEDIUM PROJECT DIVISION,
LATUR AND ANR
...

**956 CIVIL APPLICATION NO.13433 OF 2017
IN X-OBJST/7865/2017 WITH CA/3009/2012 IN FA/163/2013**

ANTARAM BASWANT SIRSAT
VERSUS
THE EXECUTIVE ENGINEER, LATUR MEDIUM PROJECT DIV. LATUR
AND ANR
...

**957 CIVIL APPLICATION NO.13434 OF 2017
IN X-OBJST/9632/2017 WITH CA/2972/2012 IN FA/159/2013**

SAYED HABIB S/O SAYED KASIM (DIED) LRS SAYED MUKHTAR
HABIB AND ORS
VERSUS
THE EXECUTIVE ENGINEER, LATUR MEDIUM PROJECT DIVISION
LATUR AND ANR
...

**958 CIVIL APPLICATION NO.13438 OF 2017
IN X-OBJST/7868/2017 WITH CA/3015/2012 IN FA/161/2013**

BALAJI MAHADU GITE AND ORS
VERSUS
THE EXECUTIVE ENGINEER, LATUR MEDIUM PROJECT DIV. LATUR

AND ANR

...

**959 CIVIL APPLICATION NO.13439 OF 2017
IN X-OBJST/33730/2017 WITH CA/13441/2017 IN X-
OBJST/33734/2017**

VENKAT MUKTAJI MALISE
VERSUS
THE STATE OF MAH. AND ANR

...

**960 CIVIL APPLICATION NO.13447 OF 2017
IN X-OBJST/32269/2016 WITH CA/13448/2017 IN X-
OBJST/32264/2016 WITH CA/13449/2017 IN X-
OBJST/32267/2016 WITH CA/13450/2017 IN X-
OBJST/32262/2016**

SANDEEP ASHOK UGILE
VERSUS
THE STATE OF MAHARASHTRA AND ANR

...

**961 CIVIL APPLICATION NO.13451 OF 2017
IN X-OBJST/32259/2016**

ASHOK NAMDEO UGILE
VERSUS
THE STATE OF MAHARASHTRA AND ANR

...

**962 CIVIL APPLICATION NO.2302 OF 2018
IN X-OBJST/39406/2017**

BABAN DEVIDAS NARWADE
VERSUS
THE STATE OF MAHARASHTRA AND ORS

...

**963 CIVIL APPLICATION NO.2580 OF 2018
IN X-OBJST/2394/2018**

MAHADAPPA SIDRAMAPPA MENKUDALE DIED LRS USHA KUMAR
MENKUDALE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...

**964 CIVIL APPLICATION NO.2892 OF 2018
IN X-OBJST/35317/2015**

ANNUBAI PITAMBAR KOLI SINCE DECEASED THR. LRS
RAGHUNATH AND ANOTHER
VERSUS
THE EXECUTIVE ENGINEER DHULE MEDIUM PROJECT DIVISION
NO.1 AND ANOTHER

...

**965 CIVIL APPLICATION NO.3271 OF 2018
IN X-OBJST/8762/2017**

DATTU GYANBA SIRSAT
VERSUS
THE EXECUTIVE ENGINEER, LATUR MEDIUM PROJECT DIVISION
LATUR AND ANR

...

**966 CIVIL APPLICATION NO.4639 OF 2018
IN X-OBJST/7980/2018**

WITH CA/2913/2014 IN CA/2912/2014
WITH CA/2915/2014 IN FA/268/2015
WITH CA/2917/2014 IN FA/273/2015
WITH CA/2919/2014 IN FA/272/2015
WITH CA/2921/2014 IN FA/270/2015
WITH CA/2923/2014 IN FA/274/2015
WITH CA/2925/2014 IN FA/269/2015
WITH CA/2927/2014 IN FA/271/2015
WITH CA/2929/2014 IN FA/275/2015
WITH CA/4640/2018 IN X-OBJST/7973/2018
WITH CA/4641/2018 IN X-OBJST/7975/2018
WITH CA/4642/2018 IN X-OBJST/7971/2018
WITH CA/4647/2018 IN X-OBJST/7964/2018
WITH CA/4649/2018 IN X-OBJST/7961/2018
WITH CA/4650/2018 IN X-OBJST/7969/2018

**WITH CA/4651/2018 IN X-OBJST/7967/2018
WITH CA/4653/2018 IN X-OBJST/7978/2018**

CHANDRAKALA BHANUDAS CHOLE AND ANR
VERSUS
THE STATE OF MAHARASHTRA AND ANR

...

**967 CIVIL APPLICATION NO.5353 OF 2018
IN X-OBJST/37512/2017 WITH CA/13933/2011 IN FA/166/2017**

BHAGWAN DHONDIBA GARJE AND ORS
VERSUS
THE STATE OF MAHARASHTRA AND ANR

...

**968 CIVIL APPLICATION NO.5827 OF 2018
IN X-OBJST/11459/2018**

ASHOK PANDHARI KADAM AND ORS
VERSUS
THE STATE OF MAHARASHTRA AND ANR

...

**969 CIVIL APPLICATION NO.6131 OF 2018
IN X-OBJST/8606/2018**

NEHRU BABURAO SONWANE DIED LRS USHABAI AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...

**970 CIVIL APPLICATION NO.6183 OF 2018
IN X-OBJST/17373/2017 WITH CA/11412/2013 IN
FA/2061/2014**

JAGGANATH VISHWANATH SONWANE THR POWER OF
ATTORNEY HOLDER BHALCHANDRA J SONWANE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...

**971 CIVIL APPLICATION NO.6198 OF 2018
IN X-OBJST/33677/2017 WITH CA/6021/2014 IN FA/77/2009**

**MANGALABAI BHIMRAO JADHAV
VERSUS
THE GODAWARI MARATHWADA IRRIGATION DEVELOPMENT
CORPORATION THR ITS EX. ENGINEER AMBAJOGAI**

...
Respective Counsel for Applicant/s 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 : P.R.BORA, J.

DATE: 28th 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 see 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