

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

**948 CIVIL APPLICATION NO.2394 OF 2018
IN FAST/30762/2017**

TUKARAM BHIKA GAIKWAD .. Applicant
VERSUS
THE STATE OF MAHARASHTRA AND ORS ..Respondents

...
Advocate for Applicant : Shri A.S. More
AGP for Respondents No.1 & 2: Shri A.M. Phule
Respondent No.3 – Served.

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CORAM : P.R. BORA, J.
Dated: January 17, 2019

PER COURT :

1. Heard Shri More, learned Counsel appearing for the applicant. Learned Counsel submitted that, the delay has been caused in filing the appeal by the applicant since he was not having adequate knowledge in respect of the limitation of filing the appeal. The learned Counsel further submitted that, more importantly the applicant-appellant was lacking funds and that is the main reason that, he could not file the appeal within the stipulated period of limitation. The learned Counsel further submitted that, the applicant will not claim interest of the period of delay in the event his appeal is allowed and the amount of compensation is enhanced on the said enhanced amount of compensation. The learned Counsel, in the circumstances, has prayed for condoning the delay.

2. Learned AGP Shri Phule opposed for condoning the delay stating that, the huge delay has not been appropriately

explained. I am, however, inclined to allow the application in view of the fact that, the delay is unintentional and the applicant-claimant has undertaken not to claim interest of the period of delay in the event the amount of compensation is enhanced. Hence, the following order is passed.

ORDER

- (i) Delay caused in filing the appeal is condoned.
- (ii) The appeal be registered in accordance with law.
- (iii) It is clarified that, in the event of his success in appeal, the applicant – claimant shall not be entitled for the interest for the period of delay on the enhanced amount of compensation.
- (iv) Copy of the present order be placed along with the papers of appeal.
- (v) Civil Application stands disposed of.
- (vi) On registration of the appeal, issue notice to the respondents. Learned AGP Shri Phule waives notice for respondents No.1 & 2.
- (vii) List the appeal for further consideration after four weeks.

(PR. BORA, J.)