

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

920 CIVIL APPLICATION NO.15865 OF 2011
IN FAST/31071/2011

GMIDC THR EXECUTIVE DIRECTOR AND ANOTHER
VERSUS

TRYAMBAK TULSIRAM KAURE AND ANOTHER

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Advocate for Applicants : Shri Sangle Shirish G.

AGP for Respondent no.2: Shri P.M. Kulkarni

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920 CIVIL AAPPLICATION NO.15869/2011
IN FAST/31132/2011

GODAWARI MARATHWADA IRRIGATION DEVELOPMENT
CORPORATION AND ANOTHER

VERSUS

SADHU IRAPPA PITALE AND ANOTHER

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Advocate for Applicants : Shri Sangle Shirish G.

Respondent no.1 served.

AGP for Respondent no.2: Shri P.M. Kulkarni

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CORAM: V.L. ACHLIYA, J.

DATE: 16.04.2019

PER COURT :

1] Both these applications are filed seeking
condonation of delay of 249 days in filing appeals
against the awards passed by the Reference Court.

2] Heard learned counsel for the applicants. None
appears for the respondent – claimants though served.
Learned AGP appears for the respondent – State.

3] In brief, it is the contention of learned counsel for the applicants that the delay caused in filing the appeals was not deliberate. It is submitted that the delay in filing appeals has occurred mainly on account of completing the procedure to file appeals, such as, to seek legal opinion, approval from the higher authority to file appeal, make budgetary provision and to arrange for Court fee expenses to be incurred for filing appeals. It is submitted that the applicant no.1 is a public body. In LAR No.724/1998, the SLAO has granted compensation at the rate of Rs.40/- per Sq.Mtr. i.e. Rs.470/- per Aare, which has been enhanced to Rs.30/- per Sq.Ft. i.e. Rs.4,00,000/- per Hectare; and in LAR No.726/1998, the SLAO has granted compensation at the rate of Rs.470/- per Aare, which has been enhanced to Rs.5,000/- per Aare. It is submitted that the enhancement is exorbitant and not sustainable in law. In case delay is not condoned, there is every likelihood that meritorious matter may be rejected for technical reasons.

4] Considering the submissions advanced in the light of unchallenged pleadings made in the applications explaining the cause for condonation of delay in filing

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appeals, I am of the view that the delay deserves to be condoned in the interest of justice. If delay is condoned, no prejudice would be caused to the respondent-claimants as ultimately the appeals will be heard on their own merits. On the contrary, if delay is not condoned, there is every likelihood that a meritorious matter may be rejected for technical reasons. Keeping in mind the broad principles laid down by the Apex Court in the case of *Esha Bhattacharjee V/s Managing Committee of Raghunathpur Nafar Academy and others* reported in [(2013)12 S.C.C. 649], I am of the view that the delay deserves to be condoned.

5] Accordingly, the applications are allowed. Delay condoned. Appeals be registered and placed for admission on 2.7.2019.

6] Call R & P.

7] Notice be issued to the respective respondent – claimants returnable on 2.7.2019.

8] Learned AGP waives service of notice for the State.

(V.L. ACHLIYA, J.)