

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

**936 CIVIL APPLICATION NO.624 OF 2019
IN FAST/34069/2018**

CHANDRASHEKHAR DAGDU ROHILE AND ANR .. Applicants
VERSUS
THE STATE OF MAHARASHTRA AND ORS ..Respondents

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Advocate for Applicants : Shri C.K. Shinde
AGP for Respondent – State : Shri P.M. Kulkarni

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CORAM : P.R. BORA, J.
Dated: January 11, 2019

PER COURT :

1. Heard the learned Counsel appearing for the respective parties. The learned Counsel for the applicants submitted that, the delay has occasioned as because the applicants did not get the amount of compensation even as per the Award passed by the reference Court and only after receiving the said amount, the steps were taken by the applicants for filing the appeal. The learned Counsel further submitted that, substantial grounds are raised by the applicants in justification of their claim of enhancement in the amount of compensation. The learned Counsel further submitted that, this Court has admitted First Appeal No.1049 of 2013 arising out of the same common Judgment and Award and the same is

pending for consideration. The learned Counsel, in the circumstances, prayed for condoning the delay caused in filing the appeal.

2. Learned AGP Shri Kulkarni has strongly opposed for condoning the delay. The learned AGP submitted that, there is huge delay of 2676 days and the reasons as are assigned are insufficient to condone the said delay. The learned AGP, in the circumstances, has prayed for rejecting the application. In the alternative, the learned AGP submitted that if the Court is inclined to allow the application, the applicant shall be disentitled for claiming interest on the enhanced amount of compensation, if he succeeds, for the period of delay.

3. I have duly considered the submissions made by the learned Counsel appearing for the respective parties. It is true that, the delay caused in filing the appeal is of the huge period, however, in view of the fact that one appeal arising out of the same common Judgment has been admitted by this Court and the same is pending for consideration, the opportunity needs to be given to the present applicant to agitate his appeal also on

merits. However, there is substance in the alternate submission made by the learned AGP that, the applicant shall be disentitled from claiming interest of the delayed period. In view of the submissions so made, the following order is passed.

ORDER

- (i) The delay caused in filing the appeal is condoned.
- (ii) The appeal be registered in accordance with law.
- (iii) It is clarified that, the applicant shall not be entitled for the interest on the enhanced amount of compensation, if he succeeds in the appeal, of the period of delay.
- (iv) Civil Application for condonation of delay stands disposed of.
- (v) The copy of the present application be placed along with the papers of appeal.
- (vi) On registration of the appeal, issue notice to the respondents. Learned AGP Shri Kulkarni waives service of notice for the respondent – State. Service complete.
- (vii) Stand over after four weeks.

(PR. BORA, J.)