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

**44 CIVIL APPLICATION NO.2578 OF 2019
IN FAST/35274/2018**

RAJARAM LIMBA SATPUTE (DIED) THR LRS RAKHAMABAI AND
ORS

VERSUS

THE STATE OF MAHARASHTRA AND ANR

...

Advocate for Applicants : Mr. P.B. Shirsath

AGP for Respondents : Mr. P.M. Kulkarni

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CORAM : P.R. BORA, J.

DATED : 18th FEBRUARY, 2019.

PER COURT:-

. Issue notice to the respondents, returnable after six weeks. The learned AGP Shri Kulkarni waives notice for the respondents. Service complete.

2. Shri Shirsath, the learned counsel appearing for the applicants submitted that against the judgment and award which is impugned in the present appeal, the State had earlier preferred an appeal and the present applicant has caused appearance in the said matter. The learned counsel further submitted that since some delay was caused in filing the appeal by the State, the application for condonation of delay was filed and the same was allowed by this Court and thereafter, the first

appeal was directed to be registered.

3. The learned counsel further submitted that however, thereafter the State has withdrawn all the said appeals in Lok Adalat of which no notice was there to the present applicants. The learned counsel submitted that in the circumstances, the present applicant could not file the cross objections in the said appeal. The learned counsel submitted that had the appeal been not withdrawn the applicant could have certainly filed the cross objection therein and was not required to file separate appeals. The learned counsel submitted that the fact that the said appeals were disposed of in the Lok Adalat also become known to the present applicants recently and immediately thereafter they have preferred the present appeal. In the circumstances, the learned counsel has submitted for condoning the delay.

4. Shri Kulkarni, the learned AGP has opposed the submission. The learned AGP submitted that the delay of more than three years has not been appropriately explained. The learned AGP further submitted that there was an opportunity for the

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applicant to file cross objection and since the same has not been filed within the period, the present appeal separately filed also cannot be entertained and the delay cannot be condoned.

5. I have duly considered the submissions made by Shri Shirsath, the learned counsel appearing for the applicants and the learned AGP Shri Kulkarni. The fact as has been stated by Shri Shirsath that after registration of the appeal without any notice to the present applicant, the appeals were withdrawn by the State is not controverted by the State. If this be so, there is substance in the contentions raised by Shri Shirsath that the applicant could not avail an opportunity of filing the cross objections in the said matter. The further contention that the applicants came to know about the withdrawal of the said appeals in Lok Adalat later on also cannot be rejected in absence of any contrary evidence. In the circumstances, I am inclined to allow the present application. Hence, the following order:

ORDER

- i) The application is allowed.
- ii) The delay caused in filing the appeal is

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condoned. The appeals be registered in accordance with law.

iii) The civil application stands disposed of.

iv) After registration of the appeal, issue notice to the respondents. The learned AGP Shri Kulkarni waives notice for respondents.

v) List the appeal for further consideration after eight weeks. Call record and proceedings.

(P.R. BORA, J.)

Mujaheed//