IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

920 CIVIL APPLICATION NO.6202 OF 2018
IN X-OBJST/33683/2017 WITH CA/6020/2014 IN FA/79/2009
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921 CIVIL APPLICATION NO.6206 OF 2018
IN X-OBJST/11634/2018 WITH CA/4178/2013 IN FA/2600/2013 WITH CA/4180/2013 IN FA/2612/2013 WITH CA/4186/2013 IN FA/2601/2013 WITH CA/4190/2013 IN FA/2608/2013 WITH CA/4196/2013 IN FA/2610/2013 WITH CA/4198/2013 IN FA/2603/2013 WITH CA/6207/2018 IN X-OBJST/11637/2018 WITH CA/6208/2018 IN X-OBJST/11644/2018 WITH CA/6210/2018 IN X-OBJST/11639/2018 WITH CA/614/2019 IN X-OBJST/12469/2018 WITH CA/618/2019 IN X-OBJST/12473/2018 WITH CA/619/2019 IN X-OBJST/14306/2018
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922 CIVIL APPLICATION NO.6227 OF 2018
IN X-OBJST/12666/2018
...
923 CIVIL APPLICATION NO.6237 OF 2018
IN X-OBJST/10581/2018 WITH CA/3227/2016 IN FA/2028/2016 WITH CA/3229/2016 IN FA/2020/2016 WITH CA/3231/2016 IN FA/2021/2016 WITH CA/3233/2016 IN FA/2023/2016 WITH CA/3235/2016 IN FA/2025/2016 WITH CA/3237/2016 IN FA/2024/2016 WITH CA/3239/2016 IN FA/2026/2016 WITH CA/3241/2016 IN FA/2027/2016 WITH CA/3243/2016 IN FA/2022/2016 WITH CA/6238/2018 IN X-OBJST/10599/2018 WITH CA/6240/2018 IN X-OBJST/10590/2018 WITH CA/6241/2018 IN X-OBJST/10592/2018 WITH CA/6242/2018 IN X-OBJST/10595/2018 WITH CA/6243/2018 IN X-OBJST/10597/2018 WITH CA/6244/2018 IN X-OBJST/10584/2018 WITH CA/6245/2018 IN X-OBJST/10602/2018 WITH CA/6246/2018 IN X-OBJST/10605/2018
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924 CIVIL APPLICATION NO.7325 OF 2018
IN X-OBJST/41694/2017
...
925 CIVIL APPLICATION NO.7328 OF 2018
IN X-OBJST/40984/2017
...

926 CIVIL APPLICATION NO.7388 OF 2018

IN X-OBJST/11568/2018 WITH CA/2582/2017 IN FA/122/2018
...
927 CIVIL APPLICATION NO.8854 OF 2018
IN X-OBJST/36510/2017 WITH CA/5389/2015 IN FA/2291/2016
...
928 CIVIL APPLICATION NO.8861 OF 2018
IN X-OBJST/41690/2017
...
929 CIVIL APPLICATION NO.8862 OF 2018
IN X-OBJST/40987/2017 WITH CA/8863/2018 IN X-OBJST/40978/2017 WITH CA/8864/2018 IN X-OBJST/40972/2017 WITH CA/8865/2018 IN X-OBJST/40981/2017 WITH CA/8866/2018 IN X-OBJST/40975/2017
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930 CIVIL APPLICATION NO.8996 OF 2018
IN X-OBJST/27872/2017
...
931 CIVIL APPLICATION NO.9087 OF 2018
IN X-OBJST/38055/2017
...
932 CIVIL APPLICATION NO.9153 OF 2018
IN X-OBJST/17420/2018 WITH CA/12276/2014 IN FA/1055/2015
...
933 CIVIL APPLICATION NO.9285 OF 2018
IN X-OBJST/38774/2017 WITH CA/10190/2013 IN FA/3099/2013
...
934 CIVIL APPLICATION NO.9286 OF 2018
IN X-OBJST/38776/2017 WITH CA/10185/2013 IN FA/3100/2013 WITH CA/10187/2013 IN FA/3102/2013 WITH CA/10192/2013 IN FA/3101/2013 WITH CA/9287/2018 IN X-OBJST/38784/2017 WITH CA/9288/2018 IN X-OBJST/38778/2017
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935 CIVIL APPLICATION NO.9336 OF 2018
IN X-OBJST/36649/2017
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936 CIVIL APPLICATION NO.9337 OF 2018
IN X-OBJST/15433/2016 WITH CA/9338/2018 IN X-OBJST/15429/2016 WITH CA/9339/2018 IN X-OBJST/15687/2016
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937 CIVIL APPLICATION NO.9340 OF 2018
IN X-OBJST/15399/2016
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938 CIVIL APPLICATION NO.9348 OF 2018
IN X-OBJST/15407/2016
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939 CIVIL APPLICATION NO.9349 OF 2018
IN X-OBJST/15397/2016
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940 CIVIL APPLICATION NO.9350 OF 2018
IN X-OBJST/15421/2016
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941 CIVIL APPLICATION NO.9354 OF 2018
IN X-OBJST/15424/2016
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942 CIVIL APPLICATION NO.9430 OF 2018
IN X-OBJST/38781/2017 WITH CA/10182/2013 IN
FA/3098/2013
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943 CIVIL APPLICATION NO.9530 OF 2018
IN X-OBJST/20496/2018 WITH CA/7391/2013 IN FA/4201/2016
...
944 CIVIL APPLICATION NO.9653 OF 2018
IN X-OBJST/3721/2018
...
945 CIVIL APPLICATION NO.9939 OF 2018
IN X-OBJST/41692/2017
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946 CIVIL APPLICATION NO.10007 OF 2018
IN X-OBJST/27499/2017
...
947 CIVIL APPLICATION NO.10887 OF 2018
IN X-OBJST/32170/2015 WITH CA/11404/2013 IN FA/332/2015
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948 CIVIL APPLICATION NO.10904 OF 2018
IN X-OBJST/32176/2015 WITH CA/11406/2013 IN FA/348/2015
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949 CIVIL APPLICATION NO.10906 OF 2018
IN X-OBJST/32167/2015 WITH CA/11402/2013 IN FA/349/2015
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950 CIVIL APPLICATION NO.10907 OF 2018
IN X-OBJST/32173/2015 WITH CA/11400/2013 IN FA/330/2015
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951 CIVIL APPLICATION NO.10908 OF 2018

IN X-OBJST/33305/2015 WITH CA/11432/2013 IN FA/352/2015

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952 CIVIL APPLICATION NO.10909 OF 2018
IN X-OBJST/33310/2015

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953 CIVIL APPLICATION NO.10910 OF 2018
IN X-OBJST/33325/2015

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954 CIVIL APPLICATION NO.10911 OF 2018
IN X-OBJST/33315/2015

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955 CIVIL APPLICATION NO.11136 OF 2018
IN X-OBJST/28433/2017

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956 CIVIL APPLICATION NO.11168 OF 2018
IN X-OBJST/22800/2014 WITH CA/6052/2007 IN FA/119/2007

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957 CIVIL APPLICATION NO.11169 OF 2018
IN X-OBJST/42191/2017

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958 CIVIL APPLICATION NO.11775 OF 2018
IN X-OBJST/33360/2017 WITH CA/9514/2011 IN FA/1166/2012

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959 CIVIL APPLICATION NO.11802 OF 2018
IN X-OBJST/20288/2015

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960 CIVIL APPLICATION NO.11803 OF 2018
IN X-OBJST/31606/2015

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961 CIVIL APPLICATION NO.11804 OF 2018
IN X-OBJST/31596/2015

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962 CIVIL APPLICATION NO.12408 OF 2018
IN X-OBJST/31618/2015

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964 CIVIL APPLICATION NO.13856 OF 2018
IN X-OBJST/20990/2018

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Advocate for Applicants : Respective counsel present
S/Shri AM Phule, PM Kulkarni and SJ Salgare, AGPs for
Respondent-State (in respective matters)
Respective Counsel for Respondent/s present

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CORAM : P.R. BORA, J.
DATED : 01st March, 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 seem 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

Mujaheed