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FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2849 OF 2019

IN

FIRST APPEAL ST.NO.15522 OF 2019

The State of Maharashtra
(through the Collector,Nashik) & Ors....Applicants
vs.

Zivalu Sakharam Bhoje & Ors. ...Respondents

Ms Anamika Malhotra,AGP for State

CORAM :K.K.TATED,J.

DATE : AUGUST 27, 2019

P.C.:

1 Heard learned AGP for State.

2 By this Civil Application, the Applicant is seeking condonation of 6 years and 67 days delay in filing First Appeal challenging the judgment and award dated 29th November 2012 passed by the Joint Civil Judge (S.D.),Nashik in L.A.R.No. 108 of 2006.

3 The learned AGP submits that for filing the First Appeal they have to take approval of several offices. In support of her contention, she relies upon averments made in paragraph 3 of the Civil Application.

4 The learned AGP submits that in the present proceedings, Judgment and Award was passed by the Reference Court on 29th November 2012. The applicant applied for certified copy on 20.8.2018 and the same was received by them on 29.8.2018.

5 The learned AGP submits that delay in filing the First Appeal may be condoned.

6 In the entire Civil Application, there is no explanation as to why the applicant waited for six years for applying the certified copy of Judgment and Award.

7 Apart from that, the reason given by the Applicant in Civil Application that, before filing the appeal on behalf of the State, they have to take approval from the several departments. It is to be noted that movement of the file from one Department to other Department, cannot be a good ground for condonation of inordinate delay. It is to be noted that this court in the matter of **Special Land Acquisition Officer & Anr. Vs. Jose Prazeres de Piedade Pinto 2006(2) BCR 773** held that the delay caused because of movement of file from one table to another cannot be considered as a good ground for condonation of delay. Para 12 of the said judgment reads thus:

12. The delay merely because it has occasioned in a matter relating to land acquisition case involving public money, condonation thereof cannot be construed as a matter of right to the Government. In case of delay, it is necessary for the Government machinery to furnish the necessary satisfactory explanation for such delay. In case the delay has occurred on account of either wilful acts on the part of the concerned officer/s or for any other reason, which could even defeat the rights of the Government or the acquiring body in relation to the provision for appeal against the award passed by the Reference Court, the mere statements regarding the movement of the file from one office to the other office, from one table to the other table cannot be construed as satisfactory explanation for the delay in filing the appeal. In the case in hand, as already observed above, merely stating that the file moved from one office to another, either for opinion or for preparation of financial report, no explanation has been placed on record as to why it took particular number of days for obtaining either the opinion of the Law Department or for preparing the financial implication report by the Executive Engineer. It apparently discloses total failure on the part of the applicants in explaining the cause for the delay of 281 days in filing the appeal as well as 51 days' delay in filing the application for condonation of delay.

The apex court in the matter of **Office of the Chief Post Master General & Ors. Vs. Living Media India Ltd. & Anr.** 2012 ALL SCR 892 held that the delay attributable to impersonal machinery and bureaucratic methodology cannot be a ground for condonation of delay. Para 13 of the said judgment reads thus:

"13. In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red-tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay. Accordingly, the appeals are liable to be dismissed on the ground of delay."

8 Though the certified copies of the judgment and award was delivered to the Applicant on 29.8.2018 they filed the First Appeal on 7.5.2019. There is no explanation for this 9 months delay in the entire Civil Application. I do not find any reason to entertain the present Civil Application for want of sufficient cause for condonation of delay.

9 In view of the above mentioned facts and the law declared by this court as well as the apex court, I do not find any substance in the Civil Application.

10 Hence, following order is passed:

- a) Civil Application stands rejected.
- b) No order as to costs.

(K.K.TATED, J.)