

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 695 OF 2020
IN
FIRST APPEAL STAMP NO. 979 OF 2020

The Executive Engineer,
(Construction) Central Railway
Circle, Latur

...Applicant

Versus

Yogiraj S/o Vaijnath Palapure
and Another

...Respondents

Mr D.V. Soman, Advocate for Applicant
Mr S.S. Manale, Advocate for Respondent No. 1
Mrs G.L. Deshpande, A.G.P. for Respondent No. 2

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 16th SEPTEMBER, 2020

PER COURT :

1. It is an application for condonation of delay moved by the applicant/original respondent No. 2 by taking aid of section 5 of the Limitation Act, 1963.

2. Heard Mr D.V. Soman, the learned counsel for the applicant/respondent No. 2 and the learned Assistant Government Pleader for respondent No. 2. Mr Satish Manale, the learned counsel for respondent No. 1 is neither available in the Court Hall where the video conferencing facility is made available nor available on-line. Perused the record.

3. There is delay of 201 days in preferring the appeal by the applicant. The delay seems to have occurred to complete procedural formalities. The delay was neither found intentional nor deliberate. The delay needs to be condoned in order to decide the cause on its own merits and to make substantial justice.

4. The reliance can be placed on the ratio laid down by the Hon'ble Supreme Court in case of ***the Collector, Land Acquisition, Anantnag & another Vs. Mast. Katji and others, reported in AIR 1987 Supreme Court 1353***, wherein it is observed that refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this, when delay is condoned, the highest that can happen is that a cause would be decided on merits after hearing the parties. Making a justice oriented approach from this perspective, there is sufficient cause to condone the delay in the institution of the appeal.

5. Having regard to the above reasons and discussion, I am convinced to allow this application as under :-

ORDER

(i) The application for condonation of delay moved by the applicant/original respondent No. 2 is hereby allowed.

- (ii) The appeal be registered after due scrutiny.
 - (iii) Issue notice to respondent Nos. 1 and 2, returnable on 28th October, 2020. The learned Assistant Government Pleader waives notice for respondent No. 2.
 - (iv) Call record and proceedings from the Reference Court.
6. Place the matter on 28th October, 2020.

[SHRIKANT D. KULKARNI, J.]

mta