

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 1049 OF 2020
IN
FIRST APPEAL STAMP NO. 2011 OF 2020

The State of Maharashtra, through
Collector, Dist. Latur and Anr.

...Applicants

Versus

Prabhu Kantappa Kadde

...Respondent

Mr P.M. Kulkarni, A.G.P. for Applicants
Mr V.G. Sakolkar. Advocate for Respondent-sole

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 16th SEPTEMBER, 2020

PER COURT :

1. It is an application for condonation of delay moved by the applicants/original respondents by taking aid of section 5 of the Limitation Act, 1963.
2. Heard the learned Assistant Government Pleader for the applicants/State and Mr Sakolkar, the learned Advocate for respondent/original claimant.
3. The learned Assistant Government Pleader submitted that the delay caused in this case was neither deliberate nor intentional. The delay was occurred due to administrative part and urged to condone the delay.

4. On the other hand, Mr Sakolkar, the learned counsel for respondent/original claimant opposed to allow this application for condonation of delay.

5. On perusing the record, it is found that there is delay of 296 days in preferring the appeal by the State. It seems that the delay was occurred due to administrative formalities. The delay was neither intentional nor deliberate in preferring the appeal. It is necessary to condone the delay to decide the cause of merits.

6. The reliance can be placed on the ratio laid down 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.

7. Mr Sakolkar, the learned counsel for the respondent/original claimant pointed out that the State has not complied with the conditional stay order passed earlier by this Court

dated 29th January, 2020. The learned Assistant Government Pleader submitted that the State would comply with it within a period of one month. His statement is accepted.

8. Having regard to the above reasons and discussion, the delay needs to be condoned as under :-

ORDER

- (i) The application for condonation of delay stands allowed.
 - (ii) The appeal be registered after due scrutiny.
 - (iii) Issue notice to respondent/original claimant, returnable on 28th October, 2020. Mr Sakolkar, the learned counsel waives notice for the respondent/original claimant.
 - (iv) Call record and proceedings from the Reference Court.
 - (v) The applicant/State to deposit the decretal amount as per the order passed by this Court dated 29th January, 2020 within a period of one month.
9. Place the matter on 28th October, 2020.

[SHRIKANT D. KULKARNI, J.]