

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 11294 OF 2018
IN
FIRST APPEAL STAMP NO. 2893 OF 2018

The Ex. Engineer, Minor Irrigation
Divn. Osmanabad and Ors.

...Applicants

Versus

Mohan Maruti Dhole

...Respondent

S.P. Sonpawale, A.G.P. for Applicant-State
Mr V.V. Ingale, Advocate for Respondent (absent)

CORAM : SHRIKANT D. KULKARNI, J.

DATE: 16th SEPTEMBER, 2020

ORAL ORDER :

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 Applicants-State.
3. Mr V.V. Ingale, the learned counsel for the respondent is neither available in the Court Hall where video conferencing facility is made available nor virtually available, when the matter is called out.

4. There is delay of 801 days in preferring the appeal by the applicants. The applicants have assigned the reasons in their application in para No. 3 to that effect. The delay was caused due to administrative ground and procedural aspects. The delay was neither intentional nor deliberate. The delay needs to be condoned in order to decide the cause on merits.

5. 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.

6. Having regard to the above reasons and discussion, I proceed to pass the following order :

ORDER

(i) The application for condonation of delay moved by the applicants is hereby allowed.

(ii) The appeal be registered after due scrutiny.

- (iii) Issue notice to the respondent, returnable on 28th October, 2020.
- (iv) Call Record and Proceedings from the Reference Court.

[SHRIKANT D. KULKARNI, J.]

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