

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**906 CIVIL APPLICATION NO.3504 OF 2012
IN FAST/6484/2012**

**SURESH LAXMINARAYAN BHANDARI AND ANR
VERSUS
THE STATE OF MAH AND ANR**

Advocate for Applicants : Mr. S. G. Kawade, hfor Mr Hajare Abhishek M.
AGP for Respondents State: Mr P. M. Kulkarni

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 16th September, 2020

ORDER:

1. It is an application for condonation of delay, moved by the applicants/ claimants by taking aid of section 5 of the Limitation Act, 1963.
2. Heard Mr. Kawade, learned Advocate appearing for the applicants and the learned A.G.P. for the respondents/State.
3. Mr. Kawade, the learned Advocate appearing for the applicants submits that due to financial crunch, the applicants could not prefer the appeal within time. The delay was not intentional or deliberate and prayed for condonation of the delay.
4. The learned A.G.P. for the respondents/State opposed to allow this application and submitted that no sufficient cause is assigned by the applicants for condonation of delay.
5. On perusing the record, it is found that there is delay of 55 days in preferring the appeal by the applicants/Claimants. The applicants have assigned the reasons for condonation of delay in their application at Paragraph No.2. Due to financial crises, the applicants could not file the appeal within time. The reason assigned by the applicants appears to be genuine and sufficient.

6. In view of the observations of the Hon'ble Supreme Court in the case of **the Collector, Land Acquisition, Anantnag & another Vs. Mst. Katji and others, reported in AIR 1987 Supreme Court 1353**, 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. Having regard to the above reasons and discussion, the delay stands condoned. The application for condonation of delay moved by the applicants is allowed.
8. The applicants shall furnish undertaking that they would not claim statutory benefits as well as amount of interest as laid down in the Land Acquisition Act, 1894 for the delayed period, in case, any enhanced compensation is awarded by this Court after adjudication of the appeal on merits.
9. The appeal be registered after due scrutiny.
10. Issue notice to the respondents in the appeal, returnable on 28th October, 2020. The learned AGP waives notice for the respondents.
11. Call record and proceedings from the reference Court.

(SHRIKANT D. KULKARNI, J.)

JPC