

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

**909 CIVIL APPLICATION NO.3976 OF 2018
IN FAST/6708/2018**

**THE EX. ENGINEER, MEDIUM PROJECT DIV. OSMANABAD
(UNDER KKVMP) AND ORS
VERSUS
BHAGWAN TUKARAM GHULE**

...

Advocate for Applicants : Mr. Patil Sham B.
Advocate for Respondent : Ms. L. R. Thakur h/for Mr. Patil Laxmikant C.

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 16th September, 2020

ORDER:

1. It is an application for condonation of delay, moved by the applicants by taking aid of section 5 of the Limitation Act, 1963.
2. Heard Mr. Sham Patil, the learned Advocate for the applicant/ acquiring body and Ms. L. R. Thakur, the learned counsel for the respondent /claimant.
3. On perusing the record, it is found that there is delay of 483 days in preferring the appeal by the applicant/ acquiring body. The acquiring body was required to obtain necessary administrative approval and while completing such procedural aspects, the delay was caused in preferring the appeal. Mr. Sham Patil, the learned counsel for the acquiring body submits that the delay is neither intentional nor deliberate. It is submitted that substantial questions of law are involved in the appeal and it is necessary to condone the delay and decide the appeal on merits.
4. In view of the observations of the Hon'ble Supreme Court in the case of **the Collector, Land Acquisition, Anantnag & another Vs. Mst.**

Katiji 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.

5. Having regard to the above reasons and discussion, I found merit in the submissions of the learned counsel for the applicants. Looking to the nature of dispute and in order to decide the appeal on merits, it is necessary to condone the delay. The delay stands condoned. The application for condonation of delay moved by the applicants is allowed.

6. The appeal be registered after due scrutiny.

7. Issue notice to the respondent/original claimant in the appeal, returnable on 28th October, 2020. Ms. Thakur, the learned counsel waives notice for the respondent.

8. Call record and proceedings from the reference Court.

(SHRIKANT D. KULKARNI, J.)

JPC