

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 6412 OF 2017
IN
FIRST APPEAL STAMP NO. 8790 OF 2017

The Executive Engineer,
Lift Irrigation Division, Osmanabad
and Anr.

...Applicants

Versus

Khandu Nana Shinde and Anr.

..Respondents

Smt. Ranjana D. Reddy, Advocate for Applicants
Mr Abhijit More, Advocate holding for
Mr Shoyab Shaikh for Respondent Nos. 1 and 2

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 Smt. Ranjana Reddy, the learned Counsel for the applicants/Original Respondent Nos. 1 to 3 and Mr Abhijit More, the learned counsel holding for Mr Shoyab Shaikh, Advocate for respondents/original claimants. Perused the record.
3. There is delay of 617 days in preferring the appeal by the applicants. The applicants have assigned the reasons about the said

delay in paragraph Nos. 7 and 8 of the application which appear to be genuine.

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 applicants/original respondents is hereby allowed.

(ii) The appeal be registered after due scrutiny.

(iii) Issue notice to respondent Nos. 1 and 2/original claimants, returnable on 25th November, 2020. Mr Abhijit More, learned counsel holding for learned counsel Mr Shoyab Shaikh waives service of notice for respondent Nos. 1 and 2.

(iv) Call record and proceedings from the Reference Court.

6. Place the matter on 25th November, 2020.

[SHRIKANT D. KULKARNI, J.]

mta