

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

CIVIL APPLICATION NO. 6738 OF 2018
IN
FIRST APPEAL ST.NO. 9182 OF 2018

The Maharashtra Krushna Valley
Development Corporation,
through Executive Engineer,
Medium Project, Osmanabad and ors.

.. Applicants

Versus

Sikandar Dagdubhai Shaikh and anr.

.. Respondents

Mr A.M. Gaikwad, Advocate for applicants
Mr Abhij S. More Advocate h/f Mr Shoyab Shakh, Advocate for
respondents no.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 Mr A.M. Gaikwad, learned Advocate for the applicants and Mr
More, learned Advocate holding for Advocate Mr Shoyab Shaikh for
respondents no.1 and 2.
3. On perusing the record, it is found that there is delay of 340 days in
preferring the appeal by the applicants. The applicants have assigned the
reasons for delay in their application in paragraph 3. The applicant could
not file appeal within time due to procedural aspects. The delay was
neither intentional nor deliberate.

4. Mr Gaikwad, learned Advocate for the applicants submitted that the Reference Court has given enhancement of eight times by placing reliance on the sale-deed of a small piece of land. The important question of law is involved in the appeal preferred by the applicants and it is necessary to condone the delay.

5. I found merit in the submissions made by learned Advocate for the applicants and it is necessary to condone the delay in order to decide the cause on its own merits.

6. In view of the observations of the Honourable Supreme Court in the case of **Collector, Land Acquisition, Anantnag & anr., Vs. Mst. Katiji and others**, reported in **AIR 1987 SC 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, I arrive at a conclusion to condone the delay and proceed to pass the following order:

ORDER

(a) The application for condonation of delay moved by the applicants stands allowed.

(b) The appeal be registered after due scrutiny.

(c) Issue notice to respondents, returnable on 28th October 2020. Mr Abhijit More, learned Advocate holding for Advocate Mr Shoyab Shaikh waives notice for respondents no.1 and 2.

(d) Call Record and Proceedings from the Reference Court. Stand over to 28th October 2020.

(SHRIKANT D. KULKARNI, J.)

vvr