

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

901 CIVIL APPLICATION NO.5608 OF 2006
IN FAST/11200/2006

THE STATE OF MAHARASHTRA AND ANR
VERSUS
LAXMAN MALABA KONDEWAD

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A. G. P. for Applicants : Mr. K. B. Jadhavar

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 16th September, 2020

ORDER:

1. It is an application for condonation of delay, moved by the applicants/State in view of section 5 of the Limitation Act, 1963.
2. Heard the learned A.G.P. for the applicants/State. None present for the respondent when called out. Mr. S.S. Halkude, learned advocate for the respondent is neither available in the Court hall where the video conferencing facility is provided nor virtually available.
3. By looking to the old pendency of this application, I thought it just and proper to decide this application for condonation of delay.
4. On perusing the record, it is found that there is delay of 108 days in preferring the appeal by the applicants/State. The applicants/ State could not file appeal within time due to procedural aspects. The delay was not deliberate. The learned A.G.P. submitted that important points are involved in the appeal and urged to condone the delay.
5. The respondent has not filed any affidavit so as to controvert the reasons assigned by the applicants/State.

6. 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.

7. Having regard to the above reasons and discussion, the delay stands condoned. The application for condonation of delay moved by the applicants/State is allowed.

8. The appeal be registered after due scrutiny.

9. Issue notice to the respondent/original claimant in the appeal, returnable on 28th October, 2020.

10. Call record and proceedings from the Reference Court.

(SHRIKANT D. KULKARNI, J.)

JPC