

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

906 CIVIL APPLICATION NO.7899 OF 2019
IN
FAST/16664/2019

SUNITA ANIL KAYASTH AND ORS
VERSUS
GAJANAN DADASINGH THAKUR AND ORS

...
Mr.S.S.Dargad, Advocate for applicants.
Mr.R.F.Totla, Advocate for R-3.

...
CORAM : V.L. ACHLIYA, J.
DATE : 17/02/2020
...

ORAL ORDER:

1. The applicants have moved this application for condonation of 181 days delay in filing appeal for the reasons set out in detail in the application.
2. Heard learned counsel for applicants and respondent No. 3. Respondent No. 2 though served, absent. Respondent No. 1 duly served and recorded appearance through Advocate.
3. In brief, it is the contention of learned counsel for applicants that the delay caused in filing appeal can not be termed as intentional and deliberate. It is submitted

that Tribunal has ordered to deduct 50% amount from the compensation towards contributory negligence. The applicants are illeterate persons. They were not properly adviced by their Advocate. Only after getting advice, applicants have taken steps to file appeal. In the process delay of 181 days has been caused in filing appeal. If delay is condoned, no prejudice would cause to respondents as the appeal will be decided on its merit.

4. On the other hand, Mr. Totla, learned counsel for respondent No. 3 opposed the application with contention that the reasons assigned are false and concocted and same are not sufficient to condone the delay of 181 days. It is contended that reasons assigned are false and concocted. It is further contended that in case delay is condoned, then respondent No. 3 be not suffer to pay the interest over the enhanced amount if enhanced compensation awarded in appeal.

5. On due consideration of submissions advanced in the light of unchallenged, uncontroverted pleadings made in the application, I am of the view the delay

deserves to be condoned. No prejudice would cause to respondents if delay is condoned as ultimately the case will be decided on merit. On the contrary, if delay is not condoned, there is every likelihood that serious prejudice would be caused to applicants. I am of the view the delay deserves to be condoned. The aspect of delay in filing appeal and liability to pay interest can be considered while deciding the appeal on merit. I am, therefore, inclined to allow the application. Accordingly, the application is allowed in terms of prayer clause '(ii)'. Delay condoned. Appeal be registered subject to removal of office objections.

6. Civil Application disposed of in above terms.

[V.L.ACHLIYA]
JUDGE

KNP