

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

**908 CIVIL APPLICATION NO.1988 OF 2018
IN FAST/22007/2017**

**LAXMIBAI SHRIRAM KADAM
VERSUS
THE STATE OF MAHARASHTRA AND ORS**

...
AGP for Respondents State: 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 applicant/claimant by taking aid of section 5 of the Limitation Act, 1963.
2. Heard the learned A.G.P. for the respondents/State. None present for the applicant when called out. Mr. D. M. Pingale, the learned advocate for the applicant is neither available in the Court hall where the video conferencing facility is provided nor virtually available.
3. The learned A.G.P. for the respondents/State opposed to allow this application and submitted that no sufficient cause is assigned by the applicant for condonation of delay.
4. On perusing the record, it is found that there is delay of 124 days in preferring the appeal by the applicant. The applicant has assigned the reasons for condonation of delay in her application at Paragraph No.3. For want of funds, the applicant could not file the appeal within time. The delay is neither deliberate nor intentional as is appearing from the record. The reason assigned by the applicant appears to be genuine and sufficient.
5. In view of the observations of the Hon'ble Supreme Court in

the case of **the Collector, Land Acquisition, Anantnag & another Vs. Mst. Katji 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.

6. Having regard to the above reasons and discussion, the delay stands condoned. The application for condonation of delay moved by the applicant is allowed.

7. The applicant shall furnish undertaking that she would not claim statutory benefits as well as amount of interest as laid down in the Land Acquisition Act, 1894 for the delayed period, in case, any enhanced compensation is awarded by this Court after adjudication of the appeal on merits.

8. The appeal be registered after due scrutiny.

9. Issue notice to the respondents in the appeal, returnable on 28th October, 2020. The learned A.G.P. waives notice for the respondent Nos. 1 and 2.

10. Call record and proceedings from the reference Court.

(SHRIKANT D. KULKARNI, J.)

JPC