

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

**907 CIVIL APPLICATION NO.10475 OF 2015
IN FAST/24074/2015**

**ZILHA PARISHAD JALNA THR EXE ENGINEER AND ORS
VERSUS
DEUBHAU SAKHARAM LAHANE**

...

Advocate for Applicant No.1 : Mr N. D. Kadu h/for Mr Tope Sambhaji S.
AGP for Applicant Nos. 2 and 3 : Mr. K. B. Jadhavar
Advocate for Respondent No.1 : Mr. G. K. Kshirsagar

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 16th September, 2020

ORDER:

1. It is an application for condonation of delay, moved by the applicants by taking aid of section 5 of the Limitation Act, 1963.
2. Heard Mr. N. D.Kadu, the learned Advocate for the applicant No.1 acquiring body, Mr. Jadhavar, learned A.G.P. for applicant Nos. 2 and 3 and Mr. G. K. Kshirsagar, learned Advocate for the respondent.
3. On perusing the record, it is found that there is delay of 240 days in preferring the appeal by the applicants. The acquiring body was required to obtain necessary administrative approval and while completing such procedural aspects, the delay was caused in preferring the appeal. Mr. Kadu, the learned counsel for the acquiring body submits that the delay is neither intentional nor deliberate. It is submitted that substantial questions of law are involved in the appeal and it is necessary to condone the delay and decide the appeal on merits.
4. 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.

5. I found merit in the submissions of the learned counsel for the applicants. Looking to the nature of dispute and in order to decide the appeal on merits, it is necessary to condone the delay when sufficient reason is assigned by the applicants.

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

7. The appeal be registered after due scrutiny.

8. Issue notice to the respondent/original claimant in the appeal, returnable on 28th October, 2020. The learned Advocate Mr. G. K. Kshirsagar waives notice for the respondent/claimant.

9. Call record and proceedings from the reference Court.

(SHRIKANT D. KULKARNI, J.)

JPC