

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

**CIVIL APPLICATION NO. 11316 OF 2019
IN
FIRST APPEAL (STAMP) NO. 26433 OF 2019**

The Executive Engineer,
Minor Irrigation, Jalgaon
and another

... Applicants.

Versus

Ramjan Gambhir Tadavi
and others

... Respondents.

....

Mr. S.D. Dhongade, Advocate for Applicant No.1
Ms. G.L. Deshpande, A.G.P. for Applicant No.2
Mr. G.M. More, Advocate for Respondent Nos. 1 to 3 (absent).

....

CORAM : SHRIKANT D. KULKARNI, J

DATE : 16th SEPTEMBER, 2020

PER COURT:-

1. It is an application for condonation of delay moved by the applicants / acquiring body by taking aid of Section 5 of the Limitation Act, 1963.

2. Heard Mr. Suresh Dhongade, learned Advocate for the applicant No.1, learned A.G.P. for applicant No.2. Mr. Gaurav Kumar More, learned Advocate for Respondent Nos. 1 to 3 is neither

available in the Court hall where the video conferencing facility is provided nor virtually available.

3. On perusing the record, it is found that there is delay of 616 days in preferring the appeal by applicants / acquiring body. The applicants / acquiring body required to obtain legal opinion from higher authorities and while completing such procedural aspects, the delay was caused in preferring the appeal. The delay is neither intentional nor deliberate. 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 *Collector, Land Acquisition, Anantnag and 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.

5. Having regard to the above reasons and discussion and in order to decide the appeal on merits, it is necessary to condone the delay.

Hence, I pass the following order:

ORDER

- (i) The application for condonation of delay moved by the applicants / acquiring body is allowed.
- (ii) The appeal be registered after due scrutiny.
- (iii) Issue notice to respondents.
- (v) Call Record and Proceedings from the Reference Court.
- (vi) Stand over to 28.10.2020.

(SHRIKANT D. KULKARNI)
JUDGE

S.P. Rane