

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

**928 CIVIL APPLICATION NO.12844 OF 2017
IN FAST/33075/2017**

**SUNITA BABARAO DANGE AND ANR
VERSUS
SUJATA SANTOSH DEBADWAR AND ANR**

...
Mr. G.R.Syed, Advocate for applicants.
Ms. P.H.Suryawanshi, Advocate for R – 1.
Mr. R.K.Ashtekar h/f Mr. S.V.Kulkarni,
Advocate for R – 2.

...
CORAM: V.L. ACHLIYA,J.

DATE : 17/01/2020

...

ORAL ORDER:

1. The applicants/appellants have preferred this application for condonation of 456 days delay caused in filing appeal for the reasons set out in detail in the application.
2. Heard learned counsel for applicants and respondent Nos. 1 and 2.
3. Learned counsel for applicants submits that delay caused in filing appeal can not be termed as intentional and deliberate. Due to poor financial condition, the appeal could not be presented within time. After arranging the funds to present the

appeal, the applicants have preferred this appeal. In the process, delay of 456 days has been caused in filing appeal. It is submitted that applicants have good case to succeed in appeal. The deceased was the only son of applicants/appellants. The compensation awarded is too meagre. The applicants are claiming enhancement of compensation. If delay is not condoned, it would cause serious prejudice to the applicants. No prejudice would be caused to the respondent if delay is condoned.

4. On the other hand, learned counsel for respondents opposed the application with the contention that the reasons assigned are false and concocted and same are not sufficient to condone the delay of 456 days.

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 be caused to the respondents if delay is condoned, as ultimately the case will be decided on its own merit. On the contrary, if delay is not condoned, serious prejudice would be caused to the applicants. I am, therefore, inclined to allow the application. Accordingly, the application is allowed in terms of

prayer clause 'B'. Delay condoned. Appeal be registered.

6. Civil Application disposed of in above terms.

[V.L.ACHLIYA]
JUDGE

KNP