

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

15 CIVIL APPLICATION NO.1457 OF 2019
IN FAST/1479/2019

THE NEW INDIA ASSURANCE CO. LTD., THR ITS IN-CHARGE
AURANGABAD
VERSUS
RAJESH SHRICHAND KUKREJA AND ORS

...
Advocate for Applicant : Shri Bodade S.R.
Advocate for Respondent No. 1 : Shri Dighe Pravin S.
Advocate for Respondent Nos. 2 & 3 : Smt. V.N. Patil-Jadhav
...

CORAM : M. G. SEWLIKAR, J.

DATE : 08th FEBRUARY, 2021.

PER COURT :

1. Heard Shri Bodade, learned counsel for the applicant, Shri Dighe, learned counsel for respondent No. 1 and Smt. V.N. Patil-Jadhav, learned counsel for respondent Nos. 2 and 3.

2. Delay is of 35 days. According to applicant the delay was caused because of administrative formalities. He submitted that delay was not intentional nor deliberate. He therefore, prayed for condonation of delay.

3. Shri Dighe, learned counsel for respondent No. 1 and Smt. V.N. Patil-Jadhav learned counsel for respondent Nos. 2 and 3 objected for condonation of delay on the ground that sufficient cause is made

out by the applicant for condonation of delay.

4. The applicant has deposited entire amount of compensation along with accrued interest. Shri Dighe, learned counsel for respondent No. 1 and Smt. V.N. Patil-Jadhav, learned counsel for respondent Nos. 2 and 3 do not dispute this fact.

5. In the case of **Improvement Trust, Ludhiana Vs Ujagar Singh and others -(2010) 6 Supreme Court Cases 786**, it has been held thus :

"It is pertinent to point out that unless mala fides are writ large on the conduct of the party, generally as a normal rule, delay should be condoned. In the legal arena, an attempt should always be made to allow the matter to be contested on merits rather than to throw it out on such technicalities."

Nothing has been brought on record to show that any right is accrued to the respondent because of the delay.

6. Having regard to the law laid down by the Hon'ble Supreme Court matter cannot be dismissed solely on the ground of delay. At the most what will happen is that the matter will be heard on merits. In view of this, I am inclined to condone the delay. Hence application is allowed. Delay is condoned.

7. Civil Application is disposed of.
8. Since the appeal is ready for admission it may be listed for admission.

(M. G. SEWLIKAR)
JUDGE

mahajansb/