

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

908 CIVIL APPLICATION NO.2294 OF 2020
IN FAST/4207/2020

NARAYAN BABURAO KALDATE (DIED)
THR LRS KASHIBAI AND ORS

VERSUS

THE STATE OF MAHARASHTRA AND ORS

...

Advocate for Applicants : Mr Nilkanth R Pawade
AGP for Respondent Nos.1 and 2 /State : Mrs P.V. Diggikar

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 16th NOVEMBER, 2021

PER COURT :

1. It is an application for condonation of delay moved by the applicants under section 5 of the Limitation Act, 1963.
2. Heard Mr Nilkanth Pawade, learned counsel for the applicants and Mrs P.V. Diggikar, learned A.G.P. for respondent Nos. 1 and 2. Respondent No. 3/Acquiring Body though duly served, none appeared for respondent No. 3 when the matter is called out.
3. Perused the record. There seems to be delay of 4684 days in preferring the first appeal at the hands of the appellants. The delay is certainly inordinate. However, Mr Pawade, learned counsel for the applicants invited my attention to the copy of the order passed in the Lok Adalat in First Appeal No. 1702/2013 with connected matters. He submitted that the connected appeals arising out of the same award have

been compromised before the Lok Adalat and in the interest of justice, the delay needs to be condoned so that this appeal can be placed before the Lok Adalat and it can be settled.

4. Mrs Diggikar, learned A.G.P. for the State submitted that there is delay of more than 12 years which is inordinate. The applicants have not assigned sufficient cause to condone the delay, and therefore, it is not a fit case to condone the delay.

5. The copy of order passed in the Lok Adalat in First Appeal No. 1702/2013 referred by Mr Pawade, learned counsel for the applicants is taken on record and marked as Art. "X" for identification. It is stated that in connected appeals which are arising out of the same Judgment and Award passed by the Reference Court, have been settled in the Lok Adalat and there are strong chances to settle this appeal before the Lok Adalat.

6. For the reasons stated in the application for condonation of delay and in order to decide the appeal on its own merits, it is necessary to condone the delay, however, subject to the payment of costs, which would meet the ends of justice.

ORDER

(I) The application for condonation of delay moved by the applicants is hereby allowed subject to the payment of costs of Rs. 5,000/- (Rupees Five Thousand) to the High Court, Legal Services Sub Committee at Aurangabad within a period of one month from today.

- (II) The applicants shall not claim statutory benefits and interest in respect of the delayed period condoned by this Court and the applicants shall furnish undertaking to that effect with the Registrar (Judicial) of this Court.
- (III) If the above said order is complied with, then the Registry to register the appeal and it be numbered and placed before the Court for admission.
- (IV) If the applicants failed to deposit the payment of costs within a stipulated period as stated above, this application for condonation of delay shall stand dismissed without making back reference to this Court.

[SHRIKANT D. KULKARNI, J.]

mta