

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

22 CIVIL APPLICATION NO.3081 OF 2019
IN FAST/5357/2019

THE NEW INDIA ASSURANCE CO. LTD., THR ITS SR. DIV. MANAGER
(LEGAL HUB), AURANGABAD

VERSUS

NANDA @ SUVARNA SHARAD TANPURE AND ORS

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Advocate for Applicant : Shri Bodade S.R.

Advocate for Respondent Nos. 1 to 3 : Shri Temak Rahul B.

Advocate for Respondent Nos. 4 & 5: Smt. Zaware Suvarna M.

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CORAM : M. G. SEWLIKAR, J.

DATE : 08th FEBRUARY, 2021.

PER COURT :

1. Heard Shri Bodade, learned counsel for the applicant. Shri Temak, learned counsel for respondent Nos. 1 to 3-claimants and Smt. Zaware, learned counsel for respondent Nos. 4 and 5.

2. None appears for respondent Nos. 6 & 7, though duly served.

3. Shri Bodade, learned counsel for the applicant submits that delay was caused in preferring appeal because of administrative formalities. He submitted that papers were sent to Regional Office for approval but the proposal of appeal was received late, therefore, delay is caused in preferring appeal which is neither intentional nor

deliberate.

4. Shri Temak, learned counsel for respondent Nos. 1 to 3 and Smt. Zaware, learned counsel for respondent Nos. 4 and 5 objected for condonation of delay as no sufficient cause is made out.

5. In para No. 10 of the application, the applicant has made out cause for preferring present appeal. According to it, it had sent papers for approval to the Regional Office but the papers received late.

6. 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.

7. 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 subject to payment of cost of Rs. 7,000/- to be paid to respondents.

(M. G. SEWLIKAR)
JUDGE

mahajansb/