

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

**907 CIVIL APPLICATION NO.3654 OF 2019
IN FAST/7835/2019 WITH CA/3655/2019 IN FAST/7835/2019**

**THE NEW INDIA ASSURANCE CO. LTD., THR ITS AUTHORIZED SIGNATORY,
AURANGABAD
VERSUS
SHASHIPRABHA SANJAYSINGH AND ORS**

Shri. M. M. Ambhore, Advocate for the applicant
Shri. Sominath M. Sangle, Advocate for respondent Nos. 1 to 5 (Absent)

CORAM : M. G. SEWLIKAR, J.

DATED : 09-02-2021

P.C. :-

. Heard learned counsel Shri. Ambhore for the applicant. Delay of 119 days is committed in preferring the appeal. Learned counsel Shri. Sangle for respondent Nos. 1 to 5 is absent.

2. It is alleged in paragraph No. 11 of the application that proposal for appeal was forwarded to the Regional Office on 14/01/2019. Regional office sought opinion of another Advocate for preferring the appeal. Time was consumed for making arrangement of statutory amount of Rs. 25,000/-. Therefore because of procedural formalities delay is committed.

3. In the case of **Improvement Trust, Ludhiana Vs. Ujagar Singh and Others, (2010) 6 SCC 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."

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

5. It appears that delay is not intentional nor deliberate. Respondents can be adequately compensated with costs. In view of this sufficient cause is made out for condonation of delay. Delay is therefore condoned subject to cost of Rs. 10,000/- to be deposited within one month. On depositing the cost, it be paid to the claimants.

[M. G. SEWLIKAR, J.]

ssp