

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

968 CIVIL APPLICATION NO. 6640 OF 2018 IN FAST/10531/2018

THE G.M.ID.C., THR THE EX. ENGINEER, MEDIUM PROJECT
DEVARJAN, NOW L.T.C.D. 2 LATUR AND ANOTHER
VERSUS
MAROTI BHAGWANT BIRADAR (DEAD) THR LRS BALASAHEB
MAROTI BIRADAR

...
Advocate for Applicant No. 1 : Anil M. Gaikwad
AGP for Applicant No. 2: Mr. S.S. Dande
Advocate for Respondent No. 2 : Mr. V.D. Gunale

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CORAM : ANIL S. KILOR, J.
DATE : 8th APRIL, 2021

PER COURT :-

1. This application is filed by applicant – Acquiring Body for condonation of delay in filing the first appeal challenging legality and validity of the Judgment and Award dated 20-02-2013 passed by the learned Joint Civil Judge, Senior Division, Udgir, in LAR No. 356 of 2012. The delay is of 1714 days in filing the appeal. The delay is inordinate.
2. Heard learned counsel for the respective parties.
3. Learned counsel for the applicant Acquiring Body submits that in the application, the applicant has stated the reasons which show that time has been spent in following and completing the procedure and because of the same, the delay is caused in filing the appeal.
4. Learned counsel appearing for the claimant opposed the said application.
5. In a recent Judgment of the Honourable Supreme Court of India, in the case of *State of Madhya Pradesh Versus Bherulal*¹ has held that :

¹(2020) 10 SCC, 654

"It is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bonafide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red- tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few."

6. After going through the application, it is clear that the delay is inordinate. However, in view of the Judgment of the Honourable Supreme Court in the case of ***State of Madhya Pradesh (Supra)***, I am of the considered opinion that the delay on the ground of procedural aspects cannot be considered, but on imposing cost of Rs.5000/- to be recovered from erring Officer. Accordingly, I proceed to pass following order.

:: ORDER ::

- (i) The Civil Application is allowed.
- (ii) The delay caused in filing the first appeal is hereby condoned subject to deposit of Rs.5000/- as cost, to be paid to the claimant, within a period of four weeks from today.
- (iii) The Registry is directed to register the First Appeal on furnishing receipt of payment of cost to the claimant and place the first appeal for admission and further consideration.
- (iv) The Civil Application stands disposed of.

**(ANIL S. KILOR)
JUDGE**