

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

**912 CIVIL APPLICATION NO.11589 OF 2018
IN FAST/20748/2018**

**VITHAL SHANKAR KHARAT
VERSUS
THE STATE OF MAHARASHTRA AND ORS**

...

Advocate for Applicant : Mr. Arun H.Koralkar
AGP for Respondent No. 1 and 2 : Mr. B.V.Virdhe

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 18-11-2021

PER COURT :

01. Heard Mr. Arun Koralkar, learned counsel for the applicant/appellant and Mr. B.V.Virdhe, learned A.G.P. for respondent Nos. 1 and 2. Respondent No. 3/acquiring body though duly served, none appeared.

02. It is an application for condonation of delay moved by the applicants. There seems to be delay of 1587 days in preferring the first appeal at the hands of the applicant.

03. Mr. Koralkar, learned counsel for the applicant invited my attention to the copy of order passed in C.A. No. 12117/2018 in F.A. stamp No. 23857/18 and submitted that in connected appeals, this Court was pleased to

condone the delay of 856 days. He urged to condone the delay.

04. Mr. Virdhe, learned A.G.P. for the respondent/ State strongly opposed to condone the delay. He submitted that no sufficient reasons are assigned by the applicant for condonation of delay. The copy of order passed by this Court in C.A. 12117/2018 in F.A. No. 23857/2018 referred by Mr. Koralkar, learned counsel for the applicant is taken on record and marked as 'X' for identification. Even though there is inordinate delay in preferring the appeal, it needs to be condoned for the reasons stated in the delay condonation application in paragraph Nos. 3 and 4 by taking the same view which was taken by my learned brother (Honourable Shri Justice Mr. R.G.Avachat). The delay needs to be condoned in the interest of justice and in order to decide the appeal on its own merits.

05. At the same time, the rights and interest of the State needs to be protected in respect of delayed period. The applicant shall not be entitled to get statutory benefits and interest in respect of delayed period.

06. Having regard to the above reasons, the

application needs to be allowed as under :

ORDER

(i) The civil application stands allowed in terms of prayer clause 7-A.

(ii) The applicant shall furnish undertaking with the Registrar (Judicial) of this Court stating that he shall not claim the statutory benefits and interest in respect of delayed period which is condoned.

(iii) The appeal be registered after due scrutiny as per procedure and it be numbered. Matter be placed before the concerned Court for admission.

[SHRIKANT D. KULKARNI]

JUDGE

Dahibhate/-