

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

954 CIVIL APPLICATION NO.13118 OF 2017
IN FIRST APPEAL STAMP NO.26549 OF 2017

DATTATRAYA VISHWNATH KADAM
VERSUS
THE STATE OF MAHARASHTRA & ANOTHER

...
Mr.Milind M. Joshi, Advocate for the applicant.
Mr.K.S.Patil, AGP for the respondent-State.
...

**CORAM : V. K. JADHAV, J.
DATED : 01.09.2021**

PER COURT :

1] Heard learned counsel for the applicant and learned AGP for the respondent-State. None appears for respondent no.2 though duly served.

2] The applicant is the original claimant in LAR No.89/2004. Being aggrieved by the judgment and award passed by the Reference Court on 31.08.2007, the applicant – original claimant has preferred this Appeal, which is delayed by 3513 days.

3] Learned counsel for the applicant submits that the applicant is agriculturist by occupation and due to financial constraint, the applicant could not file appeal within a period of

limitation. Learned counsel for the applicant submits that being aggrieved by the Judgment and Award passed by the Reference Court in LAR No.89/2004, the State has preferred First Appeal No.1051 of 2009 and this Court has admitted the said Appeal. Learned counsel for the applicant, on instructions, submits that the applicant is ready to forgo the interest for the period of delay i.e. 3513 days. Learned counsel submits that the applicant is ready to file undertaking to that effect before this Court.

4] Learned AGP for the respondent – State has strongly resisted the application on the ground that delay has not been satisfactorily explained.

5] The applicant is the original claimant and due to financial constraint, he could not file appeal within a period of limitation. However, there is an inordinate delay. Learned counsel for the applicant, on instructions, submits that the applicant is ready to forgo the interest for the period of delay i.e. 3513 days and also ready to file an undertaking to that effect. It is also pointed out that being aggrieved by the same award, the State has preferred Appeal, which is admitted by this Court.

6] In view of above and for the reasons stated in the application, the application is allowed in terms of prayer

clause-A subject to the condition that the applicant shall not be entitled to claim the interest for the period of delay i.e. 3513 days in case the Appeal preferred by the applicant is allowed for enhancement of compensation. The applicant shall also file an undertaking to that effect.

7] Civil Application is disposed of accordingly.

[V. K. JADHAV, J.]

DDC