

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

921 CIVIL APPLICATION NO.453 OF 2019
IN FA/857/2006

SHANKAR GOVINDA SONWANE DIED THR LRS GAYABAI
SHANKAR SONWANE DIED THR LRS MRLIDHAR AND ORS
VERSUS
THE SPECIAL LAND ACQUISITION OFFICER M.I.W.
JALGAON AND ANR

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Mr.A.B. Kale, Advocate for the applicant.
Mr.A.A. Jagatkar, AGP for the respondent-
State.

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CORAM : V.L.ACHLIYA,J.
DATE : 21.01.2021

ORAL ORDER :

The applicants-claimants have moved this application seeking recall of the order dated 15.04.2008 passed in First Appeal No.857/2006 with condonation of 3778 days delay in filing the application for the reasons set out in the application.

2. Heard learned counsel for the applicants-claimants and learned A.G.P. appearing for the respondent-State.

3. In brief, it is the contention of learned counsel for the applicant that applicant was unaware the order of dismissal dated 15.04.2008 passed in appeal due to

default on the part of the Advocate representing the appellant. It is submitted that as the counsel engaged by the applicant elevated as a Hon'ble Judge of this Court, she engaged another Advocate and it was learnt that appeal was dismissed on 15.08.2008 due to non-appearance of her Advocate. She has therefore filed the application seeking recall of order and restoration of the First Appeal. It is submitted that if the order is not recalled there is every likelihood that the serious prejudice may cause to the applicant.

4. On the other hand, learned A.G.P. appearing for the respondent-State opposed the application. He submits that the cause assigned not sufficient to condone the delay of 3778 days. So also the reasons assigned are false and concocted. It is further submitted that as per the office remark, the record has been destroyed.

5. On due consideration of submissions advanced, I am of the view, that cause assigned not sufficient to condone the delay of 3778 days in filing the application. The reasons assigned appears to be false,

concocted, after thought and put-forth to any how get delay of more than 10 years condoned. The applicant has not specifically stated that she has received no communication from the Advocate before his elevation as a Hon'ble Judge of this Court. In all probabilities the intimation must have been given to the applicant on the part of his advocate before accepting the appointment. Now to overcome the delay in filing application putting the blame upon her earlier Advocate. In that view, no case made out to condone the delay and set aside the order of dismissal.

6. The delay caused in filing also not deserves to be condoned as record and proceeding reported to be destroyed as per rules. I am therefore not inclined to condone the delay. Accordingly, the application is rejected.

[V.L.ACHLIYA]
JUDGE

SGA