

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

WRIT PETITION NO.11413 OF 2021

Laxman s/o. Dashrath Nikat
Age: 61 years, Occ: Agril.,
R/o. At & Post Ambejalgaon,
Tq. Karjat, Dist. Ahmednagar

... **PETITIONER**
(Orig. Plaintiff)

VERSUS

1. The State of Maharashtra
through Collector, Ahmednagar
Dist. Ahmednagar.
2. The Executive Engineer
Prime Minister Road Scheme
State of Maharashtra Rural Development
Sanstha, Ahmednagar,
Near Railway Station, ZP Workshop,
Ahmednagar.
3. The Sectional Engineer
P.W.D. Department, Sub-Division, Karjat
through :
Subhash Namdeo Waghmare
Age : 53 years, Occu: Service,
R/o. Karjat, Tq. Karjat,
Dist. Ahmednagar

... **RESPONDENTS**
(Orig. Defendants)

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Advocate for Petitioner : Mr. Rode Dilip B.
AGP for Respondent/State: Ms. D.S. Jape

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CORAM : MANGESH S. PATIL, J.

DATE : 02.12.2021

JUDGMENT :

Heard learned advocate for the petitioner as well as learned AGP. Rule. The Rule is made returnable forthwith. The learned AGP waives service. At the request of the parties, the matter is heard finally at the stage of admission.

2. By the impugned order, the order of temporary injunction granted in favour of the petitioner by the trial court has been stayed by the appellate court pending adjudication of the application for condonation of delay in preferring a Miscellaneous Appeal under Section 104 of the Code of Criminal Procedure.

3. Having heard both the sides, it transpires that the order under challenge only seeks to stay operation of the order of temporary injunction till decision of the Application for condonation of delay. That would mean that the life of the order is only limited to the time the application for condonation of delay is decided.

4. It would be appropriate, in the facts and circumstances of the case, to direct the appellate court to decide that Miscellaneous Application as early as possible. That would take care of the anxiety of the petitioner. Depending upon the decision in the application for condonation of delay, the further course would follow and he would get an opportunity to oppose any such application for stay if the delay is condoned and the appeal is registered.

5. The Writ Petition is disposed of with a direction to the appellate court to decide the Miscellaneous Application for condonation of delay as early as possible and in any event within a period of six weeks.

6. The Rule is discharged.

(MANGESH S. PATIL, J.)

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