

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

957 CIVIL APPLICATION NO.3157 OF 2021
IN
FIRST APPEAL STAMP NO. 35942 OF 2019

THE G.M.I.D.C., THE ITS EX. ENGINEER, MINOR IRRIGATION
DIVISION, OSMANABAD AND OTHERS
VERSUS
GOPAL MAHADA KAWADE

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Advocate for the Applicant : Shri R. B. Gaikwad
AGP for the Co-Applicant : Shri S. B. Pulkundwar
Advocate for the Respondent Shri N. R. Thorat h/f.
Shri R. K. Shingnapure

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CORAM : N. J. JAMADAR, J.

DATE : 11th MARCH, 2021

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PER COURT :

This is an application for condonation of 722 days delay in preferring the appeal against the judgment and award passed by the learned Civil Judge, Senior Division Bhoom, in L.A.R. No.209/2014 dated 28/08/2017.

2. The applicants – appellants aver that there was delay in preferring the appeal on account of obtaining the necessary approvals from the concerned authorities and in making arrangements to file the appeal.

3. The learned counsel for the respondent – original claimant submits that he has no objection to condone the delay.

4. It is trite that an application for condonation of delay should receive liberal consideration. The courts lean in favour of condonation of delay so as to advance the cause of substantive justice and facilitate the adjudication of the matter on merits rather than delay and latches. Having regard to the impersonal nature of the applicants some allowance is required to be given for the time consumed in initiating the steps to obtain the necessary approvals and make arrangement for filing the appeal. Ultimately, public interest may suffer if the applicants are not allowed to seek adjudication on merits.

5. An useful reference in this context can be made to the pronouncements of the Supreme Court in the cases of *Collector, Land Acquisition, Anantnag and another Vs. Mst. Katiji and others – (1987) 2 Supreme Court Cases 107* and *N. Balakrishnan Vs. M. Krishnamurthy- (1998) 7 Supreme Court Cases 123*, wherein the approach to be adopted was delineated and the principles which ought to govern the exercise of discretion were expounded.

6. On the aforesaid touchstone, having regard to the impersonal

nature of the applicants, the reasons assigned in the application and to advance the cause of substantive justice, the delay deserves to be condoned.

Hence following order :-

- (a) The application stands allowed.
- (b) The delay of 722 days caused in preferring the appeal stands condoned.
- (c) The Appeal be registered.

7. The application stands disposed of.

(N. J. JAMADAR, J.)

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