

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

956 CIVIL APPLICATION NO.3142 OF 2021
IN
FIRST APPEAL (STAMP) NO. 36222 OF 2019

THE G.M.I.D.C., THR ITS EX. ENGINEER, MINOR IRRIGATION
DIVISION, OSMANABAD AND OTHERS
VERSUS
SURESH TUJIRAM UNDRE (DIED) THR LRS NANDABAI AND OTHERS

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Advocate for the Applicant : Shri R. B. Gaikwad
AGP for Co-Applicant-State : Shri S. B. Pulkundwar
Advocate for the Respondents : 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 781 days delay in preferring the appeal against the judgment and award passed by the Reference Court in L.A.R. No.208/2014 dated 30/06/2017.

2. It is averred in the application that the delay occurred in obtaining the requisite approvals for filing the appeal and making the arrangement to file the appeal.

3. The learned counsel for the respondent – original claimants states that they have 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 applicant 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 the following order :

- (a) The application stands allowed in terms of prayer clause "A"
- (b) Delay in preferring the appeal stands condoned.
- (c) Appeal be registered.

7. Application stands disposed of.

(N. J. JAMADAR, J.)

shp/-