

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

963 CIVIL APPLICATION NO. 1959 OF 2018
IN FAST/40179/2017

EX. ENGINEER, IRRIGATION PROJECT STRENGTHING
(MAJBUTIKARAN) DIVISION, OMERGA
VERSUS
BHAGWAN SUBHANA VAGARE AND OTHERS

...

Advocate for Applicants : Mr. Rahul Tambe,
Advocate for Respondent No. 1 : Mr. Sanjay A. Wakure
AGP for Respondents No.2 and 3 : Mr. B.V. Virdhe

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964 CIVIL APPLICATION NO. 1957 OF 2018
IN FAST/40185/2017

EX. ENGINEER, IRRIGATION PROJECT STRENGTHING
(MAJBUTIKARAN) DIVISION, OMERGA
VERSUS
DIGAMBAR SHIVAPPA SURADKAR AND OTHERS

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Advocate for Applicants : Mr. Rahul Tambe,
Advocate for Respondent No. 1 : Mr. Sanjay A. Wakure
AGP for Respondents No.2 and 3 : Mr. Y.G. Gujrathi

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971 CIVIL APPLICATION NO. 1953 OF 2018
IN FAST/39203/2017

EX. ENGINEER, IRRIGATION PROJECT STRENGTHING
(MAJBUTIKARAN) DIVISION, OMERGA
VERSUS
DNYANESHWAR SHIVAPPA SURADKAR AND OTHERS

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Advocate for Applicants : Mr. Rahul Tambe,
Advocate for Respondent No. 1 : Mr. Sanjay A. Wakure
AGP for Respondents No.2 and 3 : Mr. B.V. Virdhe

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CIVIL APPLICATION NO. 1961 OF 2018
IN FAST/40174/2017

EX. ENGINEER, IRRIGATION PROJECT STRENGTHING
(MAJBUTIKARAN) DIVISION, OMERGA

VERSUS
MAHAVIR SHIVRAM POUL AND OTHERS

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Advocate for Applicants : Mr. Rahul Tambe,
Advocate for Respondent No. 1 : Mr. Sanjay A. Wakure
AGP for Respondents No.2 and 3 : Mr. S.S. Dande
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CORAM : ANIL S. KILOR, J.

DATE : 8th APRIL, 2021

PER COURT :-

1. Civil Application No. 1961 OF 2018 in First Appeal Stamp No. 40174 of 2017 is not on Board. On mentioning taken on Board.
2. These applications are filed by applicant – Acquiring Body for condonation of delay in filing the first appeals challenging legality and validity of the Judgment and Award dated 14-12-2012 passed by the learned 2nd Joint Civil Judge, Senior Division, Osmabad, District Osmanabad, in LAR Nod. 240, 247, 253 and 239 of 2004. The delay is of 1652 days in filing the appeals. The delay is inordinate. The reasons stated in the application are in respect of procedural formalities needs to be completed by the Government Agency.
3. Heard learned counsel for the respective parties.
4. Learned counsel appearing for applicant-Acquiring Body states that in the application for condonation of delay the reasons stated for condonation of the same. He states that reasons are justifiable and sufficient for condonation of delay. He further states that delay

is not intentional but bonafide. It is further pointed out that the appeal/s arising out of the same Award, this Court has admitted the same.

5. On the other side no reply has been filed by any of the respondents opposing the present application/s, however, orally the present application/s have been opposed on the ground that the delay is inordinate and if this Court is come to the conclusion that to condone the delay in that event heavy cost may be imposed on the applicant-Acquiring Body.

6. After going through the contents of the applications, which are mainly on procedural aspects, however, looking to the inordinate delay, this explanation cannot be considered. In a recent Judgment of the Honourable Supreme Court of India, in the case of ***State of Madhya Pradesh Versus Bherula***¹ has held that :-

"It is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bonafide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red- tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of

¹(2020) 10 SCC, 654

delay is an exception and should not be used as an anticipated benefit for government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few."

5. After considering the request made in the application and in view of the Judgment of the Honourable Supreme Court in the case of ***State of Madhya Pradesh (Supra)***, I am of the opinion that the delay on the ground of procedural aspects cannot be considered, however, in view of the said Judgment delay is to be condoned on a condition of depositing amount of Rs.5000/- towards cost, to be recovered from erring Officer/s. Accordingly, I proceed to pass following order.

:: ORDER ::

- (i) The Civil Applications are allowed.
- ii) The delay caused in filing the first appeal/s is hereby condoned subject to deposit of Rs.5000/- to be paid to the claimant/s, within a period of four weeks from today.
- Iii) The Registry is directed to register the First Appeal/s on furnishing receipt of payment of cost to the claimant/s and place the same for admission and further consideration.
- (iv) The Civil Applications stand disposed of.

**(ANIL S. KILOR)
JUDGE**