

Uday S. Jagtap

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 1170 OF 2016
IN
FIRST APPEAL (ST.) NO. 9811 OF 2015**

The Executive Engineer,
Minor Irrigation Division, Sangli,
Dist. Sangli

.. Applicant

Vs.

Basgonda Malkappa Biradar
(since deceased by his LRs)

1(a) Jakkavva Basgonda Biradar & Anr.

.. Respondents

.....

Mr. Y.G. Thorat i/b Mr. D.D. Shinde for the applicant
Mr. Tejpal S. Ingale for the respondents

CORAM : PRITHVIRAJ K. CHAVAN, J.

DATED : 10th MARCH, 2021

P.C.

1. This is an application seeking condonation of 144 days delay, which occurred in filing the First Appeal against the judgment and award dated 10th July, 2014 passed by the 2nd Joint, Civil Judge, Senior Division, Sangli in L.A.R. No. 17 of 2008.

2. Heard Mr. Yogesh Thorat, learned Counsel for the applicant. My attention is drawn by the learned Counsel to the averments made in paragraph nos. 6 to 9 of the application. The sum and substance of the said application is that the Corporation was required to scrutiny the proposal for filing First Appeal by going through various

stages and steps namely; consulting the panel advocate to appear in the Reference Court and conducting the reference and thereafter to see the guidelines and legal opinion of one Mr. Dhairyashil Yadav on the point as to whether the appeal can be filed in this Court. It took some time for the Executive Director to accord sanction to file the first appeal. A view of the Executive Engineer was also required to be obtained after forwarding the entire documents to the said authority.

3. Mr. Tejpal Ingle, learned Counsel for the respondents - claimants, however, object the prayer of the applicant – Executive Engineer.

4. However, considering the reasons stated in the application and after hearing the learned Counsel for the parties, in the interest of justice, the delay needs to be condoned in order to adjudicate the appeal on its own merits. However, some cost will have to be imposed upon the applicant for causing the delay as it is evident that even the amount of compensation, which was directed to be deposited by this Court, has not been deposited within time.

5. Thus, the application is allowed, subject to cost of Rs.5,000/- to be paid to the claimants, within a period of two weeks from today, as a condition precedent.

6. After depositing / paying the cost to the claimant, the delay would stand condoned.

7. Office is directed to register the appeal after deposit of the amount of cost within a period of two weeks from today.
8. The application stands disposed of.

(PRITHVIRAJ K. CHAVAN, J.)