

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 2807 OF 2015 IN
FIRST APPEAL ST. NO. 1413 OF 2015

Saud s/o Shabbir Shaikh

Applicant

Versus

Farooq S/o Ismail Shaikh & another

Respondents

Mr. Vishal Kakde, Advocate holding for Mr. Shaikh Mazhar A. Jahagirdar, Advocate for the applicant.

Mr. J. R. Patil, Advocate holding for Mr. A. G. Kanade, Advocate for respondent No. 2.

CORAM : R. M. JOSHI, J.

DATE : 9th DECEMBER, 2022.

PER COURT :

1. This application is filed by the applicant seeking condonation of delay of 3160 days occurred in preferring the appeal.

2. Heard learned counsel for the applicant and learned counsel for respondent No. 2. None appears for respondent No. 1 inspite of service.

3. It is the contention of applicant that after passing of the judgment and award dated 22nd February, 2006, he preferred review of the same. According to him, review application consumed

considerable time for its adjudication and after decision on the review application, present appeal is filed and, therefore, delay of 3160 days is caused in preferring the appeal. According to him, delay is not intentional or deliberate.

4. Learned counsel for respondent No. 2 opposed the said contention and sought dismissal of the application.

5. No doubt, applicant could have preferred appeal against the impugned judgment and award immediately inspite of filing review petition. However, preferring review of application against the said judgment before the Tribunal need not be considered as a deliberate act on his part in not filing appeal in time. In any event, applicant as per his bonafide understanding was seeking to pursue a remedy for just compensation, under said review. In the facts and circumstances of the case and having regard to right of applicant to seek just compensation, he cannot be denied said right on technicalities.

6. Since, there is delay of 3160 days and the application is filed in the year 2015, for no fault on the part of respondents, they

cannot be saddled with interest on the amount of enhanced compensation allowed during this period, if any. However, considering the fact that since March 2020, for a substantial period, regular working of the courts was hampered by Covid-19 pandemic, excluding the said period, the amount of interest needs to be denied to applicant. Hence the following order :-

ORDER

- i) Application stands allowed.
- ii) Delay of 3160 days caused in preferring appeal stands condoned.
- iii) Appeal be registered.
- iv) Applicant is not entitled to receive any amount of interest on enhanced compensation from the date of impugned judgment till March, 2020, if he succeeds in the appeal.
- v) Civil application stands disposed of.

(R. M. JOSHI)
Judge