

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

903 CIVIL APPLICATION NO.2767 OF 2012
IN FAST/1589/2012

RADHAKISHAN NARAYANRAO AKAT
VERSUS
THE STTE OF MAHARASHTRA AND ORS

Mr K.B. Jadhav, Advocate h/f Mr S.R. Yadav, Advocate for applicant
Mr S.P. Deshmukh, A.G.P. for respondents no.1 and 2
Mr B.R. Surwase, Advocate for respondent no.3

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 31st March, 2022

PER COURT :

1. It is an application for condonation of delay moved by the original claimant.
2. Heard Mr K.B. Jadhav holding for Mr S.R. Yadav, learned Advocate for applicant, Mr S.P. Deshmukh, learned A.G.P. for respondents no.1 and 2 and Mr B.R. Surwase, learned Advocate for respondent no.3.
3. Mr Jadhav submitted that the claimant could not prefer the appeal within time since he could not get the amount of compensation within reasonable time. It has resulted in delay in filling the appeal. He, therefore, urged to condone the delay.
4. Mr Surwase, learned Advocate for respondent no.3/acquirig body and Mr Deshmukh, learned A.G.P. for respondents no.1 and 2 strongly opposed to condone the delay. They further pointed out that this application for condonation of delay came to be filed in the year 2012. The applicant/claimant has not bothered to take up the circulation and it has again delayed of practically ten years. Therefore, both of them submitted that if delay is condoned, the applicant shall waive the interest not only for the delayed period, but also for not taking circulation in delay condonation application.

5. I have considered the submissions of both the sides. It is evident from the record that this application for condonation of delay came to be filed on 17.1.2012. The applicant had taken circulation for the first time on 1.9.2014 and thereafter, this application is listed today. It shows that the applicant/claimant was not prompt enough to prosecute this application for condonation of delay. The delay in not taking the circulation for about ten years cannot be overlooked while considering this application for condonation of delay. The claimant has to pay for it apart from waiving the interest for the said period in addition to delayed period.

6. Having regard to the guidelines laid down by the Honourable Supreme Court in case of **Dhiraj Singh (D) Tr. Vs. Haryana State**, reported in **MANU/SC/0778/2014**, the application needs to be allowed. However, the applicant needs to pay costs of Rs.3,000/- and he must waive statutory benefits and interest for the delayed period as well as for the period not taking the circulation in this application for condonation of delay. This needs to be done by way of equity.

ORDER

(i) The Civil Application is hereby allowed in terms of prayer clause (B) on condition that the applicant/original claimant shall pay costs of Rs.3,000/- (Rs.Three thousand only) to the Secretary, High Court Legal Services Sub-Committee at Aurangabad within four weeks from today.

(ii) The applicant/original claimant shall furnish usual undertaking with the Registrar (Judicial) stating therein that he would not claim statutory benefits and interest for the delayed period as well as for the period of ten years for not taking circulation in the application for condonation of delay.

(iii) On furnishing such undertaking and payment of costs within the stipulated period, the Registry is directed to make scrutiny of the appeal as per procedure and thereafter, it be placed for admission before the Court in the month of June, 2022.

(iv) The Civil Application is accordingly disposed of.

(SHRIKANT D. KULKARNI, J.)

VVR