

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

928 CIVIL APPLICATION NO.12548 OF 2018
IN FAST/8808/2018

AAMER HAMZA YAKUB SHAIKH DIED THR. LEGAL
HEIRS NURBI AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ORS

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Advocate for Applicant : Mr. Wakure Sambhaji S
AGP for Respondents: Mr. S P Deshmukh
Advocate for Respondent 3 : Mr. Bhalerao Sudhir G.

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CORAM : V.K. JADHAV, J.
Dated: April 22, 2022

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PER COURT :-

1. Heard both sides.
2. Being aggrieved by the common judgment and award passed by the Civil Judge, S.D., Osmanabad dated 21.11.2013 in LAR No.909 of 2011 alongwith connected LARS, the original claimant has preferred the appeal, which is delayed by 1491 days.
3. Learned counsel for the applicant submits that in the application seeking condonation of delay preferred against the same common judgment and award, this Court (Coram:M.G.Sewlikar,J.) by order dated 13.3.2020 has condoned the delay subject to the condition that the

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applicants in those application shall not claim interest and/or statutory benefits from the date of passing of the impugned award till the date of the order. Learned counsel for the applicant submits that the applicant/original claimant is also ready to forgo the interest for the delayed period.

4. Learned counsel appearing for the respondent/acquiring body has strongly resisted the application on the ground that there is an inordinate delay without explaining the same, satisfactorily. The application is thus liable to be rejected on this ground alone. Learned counsel for the respondent/acquiring body in the alternate submits that, in terms of the earlier order passed by this Court, in the event if the delay is condoned, the applicant/s herein may also not be entitled to claim the interest.

5. By order dated 13.3.2022 this Court (Coram: M.G. Sewlikar, J.) in the matters arising out of the same judgment and award passed by the Reference Court has condoned the delay by making following observations :-

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“7. In the aforesaid case the period of delay was 2928 days. Having regard to the law laid down by the Hon’ble Supreme Court, the delay caused in preferring the appeal can be condoned subject to conditions that the applicants shall not claim interest and/or statutory benefits for the period from the date of passing of the impugned award till the date of this order.”

6. In view of the same, these application seeking condonation of delay is allowed and delay is condoned on the condition that if the applicants succeeds in the appeal, they will not claim interest and/or statutory benefits from the date of passing of the impugned award till the date of the order. Civil application accordingly disposed off.

(V.K. JADHAV, J.)

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