

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

928 CIVIL APPLICATION NO.13267 OF 2017
IN FAST/10120/2017

ARUN DADARAO CHEDE
VERSUS
THE STATE OF MAHARASHTRA AND ORS

...
Advocate for Applicant : Mr. Murge Estling S.
AGP for Respondents/State : Mr. A.R. Kale
Advocate for R/2 : Mr. Gaikwad Ranjit B.
...

CORAM : Y.G. KHOBRAGADE, J.
DATE : 11th November, 2022

PC.:-

1. Heard advocate Mr. Estling Murge learned counsel appearing for the applicant, advocate Mr. Gaikwad learned counsel appearing for non-applicant no.2 and Mr. A.R. Kale learned AGP appearing for non-applicant nos.1 and 3.

2. The applicant has invoked the jurisdiction of this Court under Section 5 of the Limitation Act and prayed for condonation of delay of 65 days caused while lodging the appeal against the judgment and award dated 28.09.2016 passed in LAR No.387/2014. The applicant contended that he was not financially sound, therefore, he could not file the appeal within the stipulated period and he is having strong *prima facie* case. The non-applicants

have not seriously challenged the present application, however, the learned counsel for the non-applicant no.2 submitted that the applicant would not be entitled for the interest on the delayed period, as the applicant instituted the present application on 23.03.2017, however, the same was not circulated. Therefore, the applicant is not entitled for the interest on the delayed period.

3. Per contra, the learned counsel appearing for the applicant submitted that in past the matter was circulated, however it was adjourned at the instance of the non-applicant nos.1 and 3, therefore, the applicant is also entitled for interest on the delayed period.

4. Since the applicant instituted the present application on 23.03.2017 and it was first listed on 13.08.2021 and thereafter the said matter was not listed. Therefore, considering this exigency both the parties will have the right to argue the matter at the time of final hearing on the point of interest on the delayed period i.e. from lodging of the appeal till enlisting the matter before the Court. In view of above discussion, I am inclined to grant the present application and proceed to pass the following order:

ORDER

- I) The civil application is hereby allowed.
- II) The delay of 65 days is hereby condoned. No order as to costs.

- III) The Registry is directed to register the first appeals and place it before the Court for further action.

[Y.G. KHOBRADE, J.]