

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

921 CIVIL APPLICATION NO.6241 OF 2019
IN FAST/14100/2018

KRUSHNA BHAURAO AHER AND ORS
VERSUS
THE STATE OF MAHARASHTRA AND ANR

...
Advocate for Applicants : Mr. Shinde Avinash R
AGP for Respondents State: Mr. A. B. Chate

CORAM : Y. G. KHOBRAGADE, J.
DATE : 18TH NOVEMBER, 2022

ORDER:

1. Heard learned counsel appearing for the applicants and learned AGP for respondent No.1. None for respondent No.2.
2. By the present application, the applicants prayed for condonation of delay of 1738 days caused in filing appeal. Learned counsel for the applicant submitted that, that due to unsound financial condition, the applicants could not file appeal within stipulated time, hence, the delay is bonafide and not intentional and prayed for condonation of the same.
3. Learned AGP vehemently canvassed that on 02.05.2013, the trial court passed the judgment and award in LAR No.22 of 2011, however, the applicants presented this application and appeal on 03.05.2018 for which, delay of 1738 days caused. So also, the applicant has not taken any steps to get circulated the matter and lastly on 6th February, 2020, the matter first time listed before this Court. Therefore

the applicants are not entitled for statutory benefits and interest for the delayed period as well as for the period which has been consumed in getting circulation i.e. w.e.f. 03.05.2018 till 05.02.2010.

4. It is well settled principle of law that the litigant should not be suffered for receiving substantial justice on technical ground and the court should be liberal while condoning the delay, if proper and substantial explanation is given. The learned counsel for the applicants fairly admitted about non entitlement for getting statutory benefits and interest for the delayed period as well as for the period which has been consumed in circulating the matter. Accordingly, I proceed to pass the following order:-

O R D E R

- i. Civil application is hereby allowed
- ii. The delay of 11738 days caused in filing appeals is hereby condoned.
- iii. Office to register the appeal and place before the Court for further action.
- iv. Copy of the order be placed in appeal so that at the time of final argument, it can be referred.

(Y. G. KHOBRADE, J.)

JPChavan