

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
CIVIL APPLICATION NO.8544 OF 2022
IN FAST/15003/2022**

LATA ANAND SHINDPHALKAR AND ORS
VERSUS
LAXMI VISHNU SHINGADE AND ORS

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Mr. Manoj D. Shinde, Advocate for the Applicants.
Mr. T. M. Venjane, Advocate for Respondent Nos.1 to 6.

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**CORAM : S. G. DIGE, J.
DATED : 11th OCTOBER, 2022.**

PER COURT:-

1. Heard learned counsel for the applicants and the learned counsel for the respondents.

2. The learned counsel for the applicants submits that, the applicants have disputed the order passed by the learned Commissioner for Employees Compensation and Judge, Labour Court, Latur on the ground that, the deceased was not employee of the applicants. The applicants have filed Appeal within time, which is pending before this Court on Stamp Number, but with that Appeal applicants have not tagged certificate of deposit of amount before the learned Commissioner, which is mandatory at the time of filing of Appeal. Later on, due to miscommunication between the advocate at High Court and Advocate at the Latur, the present Appeal is filed by the applicants alongwith certificate of deposit of amount and there is delay in filing this Appeal. Technically there is delay

in filing the Appeal otherwise, when the First Appeal was filed by the applicants, there was no delay. Hence, requested to condone the delay.

3. The learned counsel for the respondent nos.1 to 6 strongly objected to allow the application on the ground that, no specific reasons are given to condone the delay. Filing the First Appeal and Second Appeal cannot be a ground to condone the delay. Hence, requested to dismiss the Appeal.

4. I have heard both the learned counsels.

5. Admittedly, the applicants have filed First Appeal against the impugned order before this Court, which is pending on Stamp Number. Thereafter, the applicants have filed this Appeal alongwith certificate of learned Commissioner. The applicants want to withdraw the First Appeal which is on Stamp Number on the ground that, the said Appeal is without certificate of the learned Commissioner. Earlier Appeal was within time and there is no delay. In my view, earlier Appeal was filed within time, but there was no certificate attached with it. Thereafter, due to miscommunication between the Advocates, the Second Appeal is filed. It is with the certificate of learned Commissioner. Hence, it is good ground to condone the delay and I pass the following order:

ORDER

- (i) The application is allowed.
- (ii) The delay of 1014 days for filing the First Appeal is condoned.
- (iii) The Appeal be registered subject to the withdrawal of earlier Appeal.
- (iv) The Civil Application is disposed of.

(S. G. DIGE)
JUDGE