

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

939 CIVIL APPLICATION NO.616 OF 2018
IN FAST/28893/2017

MARUTI MANDIR DEVSTHAN TALMOD THR ITS PRESIDENT
VENKAT B. MORE
VERSUS
THE STATE OF MAHARASHTRA AND ANR

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Advocate for Applicants : Mr. Ghute Suhas B.
AGP for Respondents/State : Mrs. M.A. Deshpande

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

PC.:-

Heard advocate Mr.Ghute learned counsel appearing for the applicant and Mrs. Deshpande learned AGP for non-applicant no.1.

2. The applicant has filed present application under Section 5 of the Limitation Act and prayed for condonation of delay 3584 days caused while lodging appeal against judgment and award dated 06.08.2007 passed in LAR No.77/2005 by the learned C.J.S.D., Omerga. The learned trial Court passed the judgment and partly allowed the reference. The SLAO granted very meager amount for the acquisition. The applicant submitted that the delay was not intentional and due to want of proper legal advice the applicant-trust could not lodge the appeal in time.

3. The learned AGP vehemently canvassed that the applicant require to explain the day to day delay, however, the applicant has not shown any *bona fide* and substantial reason. Therefore, he prayed for rejection of the application. In the present application, it *prima facie* appears that on 06.08.2007 the Reference Court passed the impugned judgment and award, however, due to some administrative reasons could not file appeal within the statutory period which appears to be substantial and *bona fide*. Therefore, by exercising discretionary powers conferred under Section 5 of the Limitation Act and in the interest of justice, it would be just and proper to condone the delay of 3584 days caused in filing the present appeal. Accordingly, I proceed to pass the following order:

ORDER

- I) The application for condonation of delay is hereby allowed.
- II) The delay of 3584 days in filing the appeal is hereby condoned.
The applicant shall not be entitled for the interest and statutory benefits for the delayed period.
- III) The Registry is directed to register the first appeal and place it before the Court for further action.

[Y.G. KHOBRADE, J.]