

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

929 CIVIL APPLICATION NO.2374 OF 2018
IN FAST/29940/2017 WITH CA/2375/2018 IN FAST/32315/2017

MADHUKAR TRIMBAK SANAP AND ANR
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicants : Mr. Jayabhar Dattatraya R.
AGP for Respondents/State : Mr. S.S. Dande
...

CORAM : Y.G. KHOBRAGADE, J.
DATE : 16th November, 2022

PC.:-

Heard advocate Mr. Jaybhar the learned counsel appearing for the applicants and Mr. Dande learned AGP for the sole-respondent.

2. In the present applications the applicants prayed for condonation of delay of 3446 and 12 years 74 days caused while lodging the appeals against the judgment and order dated 07.04.2005 passed by the learned 2nd Ad-hoc Additional District Judge, Beed. The learned counsel for the applicants submitted that after the impugned judgment was passed by the learned Court, application for certified copy in C.A. No.2374/2018 was submitted on 15.07.2017 and it was received on the same day. In C.A. No.2375/2018 application for certified copy was submitted on 26.07.2017

and it was received on 01.08.2017, however, because of their poor financial condition and due to their illiteracy they could not knock the door of this Court within the stipulated period. Therefore, delay has been caused, which is *bona fide* and not intentional.

3. Per contra, the learned AGP submitted that there is inordinate delay in filing the appeals against the impugned judgment and order and the applicants wanted to pray for enhancement of compensation. So also, though, the applicants instituted present application on 18.09.2017 and 06.09.2017, however, the applicants failed to circulate the matter for the period of five years. Therefore, the applicants are not entitled for the interest and statutory benefits for the delayed period as well as the period which has been caused while circulating the matter.

4. In support of the submissions the learned AGP placed reliance on unreported order dated 09.11.2022 passed in C.A. No.5157/2020 in FAST No.18511/2019 and connected matters, wherein, the Single Bench of this Court considered Chapter II Rule 3 and Chapter X Rule 4 (2) of the Appellate Side Rules, as well as the period of lock-down due to Covid-19 pandemic and held that the applicants are not entitled for the interest and statutory benefits for the delayed period as well as the period which has been consumed for getting circulation of the matter. In view of above and considering the reasons

stated in the present application, the delay caused in filing the appeals is liable to be condoned. However, the applicants are not entitled for statutory benefits and interest for the delayed period as well as the period which has been consumed for circulating the matter i.e. from the date of filing of the application till this order. Learned counsel for the applicants submitted that he will file undertaking in respect of waiver of interest and statutory benefits for the delayed period as well as for the period which has been consumed for circulating the matter on board. In view of above discussion, the following order is passed:

ORDER:

- I) Both the Civil Applications are hereby allowed.
- II) The delay of 4445 days and 12 yrs & 74 days is hereby condoned.
No order as to costs.
- III) Office is directed to register the first appeals and place it before the Court for further action.
- IV) The applicant shall not be entitled for the interest and statutory benefits for the delayed period.

[Y.G. KHOBRAGADE, J.]