

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

4 CIVIL APPLICATION NO.6387 OF 2016
IN FAST/29263/2015

CHANDRAKALA MADHAVRAO JADHAV
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicants : Mr. Ingale Vivekanand V.
AGP for Respondents/State : Mrs. D.S. Jape
Advocate for Respondents : Mr. Imale Ramesh Ramdas
...

CORAM : ANIL L. PANSARE, J.
DATE : 4th July, 2022

PC.:-

Heard learned counsel for the applicant, learned A.G.P. and learned counsel for the acquiring body.

2. The applicant is the original claimant seeking condonation of delay of 3544 days in filing appeal against the judgment and award passed by the Reference Court in the L.A.R. No.180/2004 decided on 20.10.2005.

3. Condonation has been sought on the ground that applicant is an illiterate person. The matter before the trial Court was conducted by the husband of applicant and therefore applicant had no knowledge of court proceeding. The husband of applicant expired on 05.04.2015. As such award

has been passed in the year 2005, however, the husband could not file appeal because of his health condition, he had heart issues and ultimately succumbed to his ailment in the year 2015. Learned counsel for the applicant submits that the applicant will file undertaking to forego statutory interest @ 15% for the delayed period.

4. Learned counsel for acquiring body and the learned AGP opposed application on the ground that delay has not been properly explained.

5. The non-applicants have not attributed *mala fides* to the applicant in filing belated appeal. Therefore, and in view of the statement made by the learned counsel for the applicant that the applicant shall file undertaking to forego interest, so also for the reasons stated in the application and to advance the cause of substantive justice, the delay deserves to be condoned.

Hence, the following order:-

i) The delay is condoned subject to filing undertaking by the applicant that she will forego statutory interest payable to her for the delayed period, if appeal is allowed. The undertaking so filed by the applicant in Civil Application be kept in First Appeals.

ii) Civil Application is disposed of accordingly.

iii) First Appeal Stamp Number be registered. Issue notice to the respondents, returnable after four weeks. Learned AGP waives service for respondent no.1. Learned counsel Shri Ramesh Imale waives service for respondent no.2.

iv) Call R & P.

[ANIL L. PANSARE, J.]