

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

928 CIVIL APPLICATION NO.2367 OF 2018
IN FAST/30117/2017

ASHABAI VIJAY MUTHA
VERSUS
THE STATE OF MAHARASHTRA AND ORS

...
Advocate for Applicants : Mr. Swapnil Joshi i/b. J.P. Legal Associates
AGP for Respondents/State : Mr. A.B. Chate
...

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

PC.:-

1. Heard advocate Mr. Swapnil Joshi i/b. J.P. Legal Associates learned counsel appearing for the applicant and Mr. A.B. Chate the learned AGP appearing for non-applicant nos.1 and 2. None appeared for non-applicant no.3.

2. The applicant prayed for condonation of delay of 123 days caused while lodging the appeal against judgment and award dated 06.02.2017 passed in LAR No.535/2011 by the learned 6th Jt. C.J.S.D., Jalna on the ground that the applicant is a poor Agriculturist and due to her unsound financial capacity she could not pay the requisite Court fees, so also, some time was lapsed seeking legal advice. According to the applicant the delay is not intentional but it is substantial and *bona fide*.

3. Per contra, the learned AGP strongly opposed the application on the ground that the applicant has not given any *bona fide* and substantial reason, hence the delay of 123 days cannot be condoned.

4. It is needless to mention here that the Court should be liberal while condoning the delay and the litigant should not be deprived from receiving substantial justice on technical ground. In the case in hand, it *prima face* appears that there is a delay of 123 days while lodging the present appeal against the judgment award dated 06.02.2017 passed by the learned trial Court on account of her financial crisis. Therefore to my judicious mind the ground set out by the applicant is sufficient and *bona fide* to condone the delay of 123 days. In view of above discussion, I am inclined to grant present application, however, the applicant shall not claim interest for the delayed period. Accordingly, I proceed to pass the following order:

ORDER:

- I) The Civil Application is hereby allowed.
- II) The delay of 123 days is hereby condoned. The applicant will not be entitled for the interest on the delayed period.
- III) The Office is directed to register the first appeals and place it before the Court for further action.

[Y.G. KHOBRADE, J.]