

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

940 CIVIL APPLICATION NO.3661 OF 2020
IN FAST/32829/2019

SUDAM NIVRUTTI SABALE AND ORS
VERSUS
THE STATE OF MAHARASHTRA AND ORS

...

Advocate for the applicant: Mr. Rahul S. Pawar
AGP for the respondents State: Mr. A. B. Chate

CORAM : Y. G. KHOBRADE, J.
DATE : 18TH NOVEMBER, 2022

ORDER:

1. Heard learned counsel for the respective parties.
2. The applicant has filed present application and prayed for condonation of delay of 1911 days caused in lodging appeal mainly on ground that though the Acquiring. The trial court has passed the judgement and award on 22.04.2014 in LAR No. 1880/2010 but due to poor financial condition he could not lodge the appeal within stipulated period and therefore the said delay is caused while lodging the first appeal.
3. Learned AGP submitted that the applicant has not explained the delay properly and merely the ground of poor financial condition of the applicant is not sound cannot be a sole ground to condone the delay. Hence prayed for rejection of the same.
4. It is trite well settled principle of law that the litigant should not be suffered for receiving substantial justice on technical ground and the court should be liberal while condoning the delay, if proper and

substantial explanation is given. The applicant has assigned reason that, due to poor financial condition, he could not arrange for court fees and therefore delay is caused. The delay appears to be bonafide and substantial. At the same time, for the inaction on the part of applicant, the acquiring body cannot be suffered. Therefore, to my mind, the applicant shall not be entitled for interest and statutory benefits for the delayed period. Accordingly, I pass the following order:

O R D E R

- i. Civil application is hereby allowed
- ii. The delay of 1911 days caused in filing appeal is hereby condoned. The applicants shall not be entitled for interest and statutory benefits for the delayed period.
- iii. Registry of this office is directed to register the appeal and place before this Court for further action.
- iv. Copy of the order be placed in appeal so that at the time of final argument, it can be referred.

(Y. G. KHOBRAGADE, J.)

JPChavan