

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL APPLICATION NO.594 OF 2017

IN

REJECTED CASE NO.754 OF 2001

Sitaram Narayan Patil (deceased)
through his legal heirs and
representatives

1A Pralhad Sitaram Patil and Ors.

...Applicants

Versus

The Special Land Acquisition
Officer, Metro Center No.II, Panvel
Raigad.

...Respondents

...

Mr. S.P. Thopratt for the Applicants.

Ms Tanaya Goswami, AGP for Respondent -State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 26th JULY, 2022.

P. C. :-

1. By this application, the Applicant has sought to condone the delay of 13 years in filing the application to restore the appeal, which was rejected on 04/03/1997. It is noted that subsequent to rejection of the appeal, records have been destroyed after following requisite procedure. The conditional order, which has not been complied with by the Applicant and which has resulted in rejection of the appeal is also not on record. The only material that is available is the case status on the High Court website, which shows that appeal under stamp

No.6393 of 1994 was rejected on 04/03/1997. The application for restoration is filed after a period of 13 years. The Applicant states that the Applicant had paid stamp duty of Rs.4,000/- and he was required to pay deficit stamp duty of Rs.6,600/-. In paragraph 8 of the application the Applicant has stated that Advocate for the Applicant had taken time to pay deficit stamp duty. However, the same was not paid and as such the appeal remained on stamp number and subsequently dismissed for non-compliance of the conditional order dated 04/03/1997. The Applicant claims that he came to know about rejection of the appeal on 22/01/2010. Apart from this statement, there is no other cogent and conclusive explanation as to why no steps were taken to pay the deficit stamp duty despite seeking time. Moreover, the Applicant was aware that the other connected appeals were pending before the Court and were heard on merits, yet the Applicant did not verify the status of the appeal.

2. The delay is inordinate. No sufficient cause is made out to condone the delay. The records are destroyed. Parties are also unable to construct the file. Under the circumstances, there is no other option but to dismiss the application. Hence, the application is dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)