

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

**INTERIM APPLICATION NO.509 OF 2022
IN
FIRST APPEAL NO.441 OF 2011**

The State of Maharashtra

...Appellant/Applicant

Versus

Dhanpal Kalla Awati (since deceased
through his legal heirs:-

1. Kallapa Dhanpal Awati and Anr.

...Respondents

...

Mr. A.R. Patil, AGP for the Appellant-State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 1st AUGUST, 2022.

P. C. :-

1. This is an application to condone the delay of 9 years and 104 days, set aside abatement and bring on record the legal representatives of the sole Respondent.

2. The records reveal that the appeal was admitted on 04/02/2011. The office note indicate that notice issued to Respondent had returned unserved with an endorsement that he had expired on 15/07/2012. A statement has been made in the application that the Applicant had learnt about death of the sole Respondent when the matter was listed on the board of learned Registrar on 15/07/2012.

No justifiable reasons are given to explain the delay from 15/07/2012 till November-2021.

3. The principles regarding condonation of delay are well settled. In *University of Delhi vs. Union of India and Others (2020) 13 SCC 745* the Hon'ble Supreme Court after considering the decisions in *Collector, Land Acquisition, Anant Nag and Anr. Vs. Katiji and Ors. 1987, (2) SCC 107, M/s. Dehri Rohtas Light Railway Company Ltd. vs. District Board, Bhojpur and Ors. (1992) 2 SCC 598* and *Post Master General and Ors. vs. Living Media India Limited and Anr. 1992(3) SCC 563*, has held thus:-

20. From a consideration of the view taken by this Court through the decisions cited supra the position is clear that, by and large, a liberal approach is to be taken in the matter of condonation of delay. The consideration for condonation of delay would not depend on the status of the party namely the Government or the public bodies so as to apply a different yardstick but the ultimate consideration should be to render even handed justice to the parties. Even in such case the condonation of long delay should not be automatic since the accrued right or the adverse consequence to the opposite party is also to be kept in perspective. In that background while considering condonation of delay, the routine explanation would not be enough but it should be in the nature of indicating "sufficient cause" to justify the delay which will depend on the backdrop of each case and will have to be weighed carefully by the Courts based on the fact situation. In the case of Katiji (Supra) the entire

conspectus relating to condonation of delay has been kept in focus. However, what cannot also be lost sight is that the consideration therein was in the background of dismissal of the application seeking condonation of delay in a case where there was delay of four days pitted against the consideration that was required to be made on merits regarding the upward revision of compensation amounting to 800 per cent.”

4. Reliance is also placed on the decision of ***Majji Sanemma @ Sanyasirao Vs. Reddy Sridevi and Ors. 2022 (2) Mah.L.J. 9*** wherein the Hon'ble Supreme Court has reiterated the principles laid down in the previous decisions that in the absence of reasonable, satisfactory or appropriate explanation, the delay is not to be condoned lightly. The expression 'sufficient cause' cannot be liberally interpreted if negligence, inaction or lack of bonafides is attributed to the party and that the Courts cannot enquire into belated and stale claims on the ground of equity.

5. Since no sufficient cause has been shown to condone the delay, which is over 9 years, application is dismissed. Proceedings are closed as abated.

(SMT. ANUJA PRABHUDESSAI, J.)