

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

**CIVIL APPLICATION NO.1983 OF 2018
IN
FIRST APPEAL (STAMP) NO.33055 OF 2016**

The State of Maharashtra and Anr. ...Applicants

Versus

Kashiram Mukunda Tarware (since
deceased name deleted)
1A Shri Murlidhar Kashiram Tarware
and Ors. ...Respondents

....

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

CORAM : ANIL S. KILOR, J.

DATED: 28th JANUARY, 2022.

P.C.:-

1. Heard Mr. A.R. Patil, learned AGP for the Appellant-State.
None for the Respondents though served.

2. Learned AGP points out that there is a delay of 2 years and 38 days in filing the First Appeal challenging the judgment and award dated 27/03/2014 passed by the learned 3rd Joint Civil Judge, Senior Division, Nashik in Land Acquisition Reference No.359 of 2008.

3. It is submitted that the delay has been caused in this matter because of administrative procedure, which needs to be followed and complied with before filing the appeal. It is further stated that the file moves through various departments for obtaining approval, to file appeal and due to this reason, it took time to file appeal.

4. Mr. Patil, learned AGP points out that the chart is given in the application pointing out various dates and the stages through which the file had moved. It is submitted that because of these administrative reasons, the delay has been caused, and therefore, he prays for condonation of delay.

5. In the case of **State of Madhya Pradesh vs. Bherulal**¹, the Hon'ble Supreme Court of India has observed as under:

“The law of limitation undoubtedly binds everybody including the Government. It is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for the

¹ (2020) 10 SCC 654

government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few.

6. *We are also of the view that the aforesaid approach is being adopted in what we have categorized earlier as “certificate cases”. The object appears to be to obtain a certificate of dismissal from the Supreme Court to put a quietus to the issue and thus, say that nothing could be done because the highest Court has dismissed the appeal. It is to complete this formality and save the skin of officers who may be at default that such a process is followed. We have on earlier occasions also strongly deprecated such a practice and process. There seems to be no improvement. The purpose of coming to this Court is not to obtain such certificates and if the Government suffers losses, it is time when the concerned officer responsible for the same bears the consequences. The irony is that in none of the cases any action is taken against the officers, who sit on the files and do nothing. It is presumed that this Court will condone the delay and even in making submissions, straightaway the counsel appear to address on merits without referring even to the aspect of limitation as happened in this case till we pointed out to the counsel that he must first address us on the question of limitation.*

7. *We are thus, constrained to send a signal and we propose to do in all matters today, where there are such inordinate delays that the Government or State authorities coming before us must pay for wastage of judicial time which has its own value. Such costs can be recovered from the officers responsible.”*

6. In the teeth of the above observations made by the Hon’ble Supreme Court of India in the case of **Bherulal** (supra), I revert back to the facts of the present case. Undisputedly, in the present matter, according to learned AGP, the exorbitant amount of compensation to the

tune of Rs.5,78,246/- has been granted. The amount involved in the present matter is huge and since it is a public money and as held by the Hon'ble Apex Court in various judgments that the primary function of the court is to adjudicate the dispute between the parties and to advance substantial justice. The time limit fixed for approaching the court in different situations was not because on expiry of such time a bad cause would transform into a good cause. Rules of limitation are not meant to destroy the rights of parties. They are meant to see that the parties do not resort to dilatory tactics, but seek their remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury.

7. In the circumstances, for the reasons recorded hereinabove, though the delay is unreasonable and inordinate, I am of the considered view that in this matter liberal view needs to be taken while considering the present application for condonation of delay. As such, I pass the following order :

ORDER

- (i) The application for condonation of delay is allowed. The delay caused in filing the first appeal is condoned subject to payment of costs of

Rs.10,000/- to be paid to the Respondent. Costs to be paid within a period of eight weeks from today. Failure to pay the costs, the application shall stand dismissed without further reference to the court.

(ii) On payment of costs, the office is requested to register the first appeal and place the same before the court for admission.

(ANIL S. KILOR, J.)

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