

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

**CIVIL APPLICATION NO. 1945 OF 2016
IN FAST/3989/2016**

Hanmant Babarao Gavalwad
and another

.. Applicants

Versus

Malaram Kumbharam and another

.. Respondents

Mr. Dinkar G. Kamble, Advocate for the Applicants.

Mr. Sudhir V. Kulkarni, Advocate for Respondent No. 2.

CORAM : KISHORE C. SANT, J.

DATED : 30th AUGUST, 2023.

P. C. :-

. Learned advocate Mr. Kulkarni has now filed Vakalatnama for respondent No. 2. In view of the same, appearance of learned advocate Mr. Upadhye for respondent No. 2 stands discharged.

2. This application is for condonation of delay of 100 days occurred in filing the first appeal.

3. Learned advocate for the applicants submits that, delay is unintentional and purely circumstantial. The applicants are illiterate persons and were not aware of limitation.

4. Considering the fact that, first appeal is for enhancement, this

Court finds that, the application deserves to be allowed.

5. However, at this stage, learned advocate for respondent No. 2 submits that, since 2016 the application is only pending and is not finally decided. Even the registration of appeal is not made in view of pendency of the civil application. This civil application is kept pending before the Court. No interest be awarded to the applicants from the date the application is filed till the date the application is allowed.

6. This Court finds that, the application can be allowed with this condition. This condition appears to be reasonable. Hence, the following order is passed.

7. The civil application is allowed.

8. Delay of 100 days stands condoned. The applicants, however, shall not be entitled to the interest in case they succeeds in appeal for the period from 05.01.2016 till 30.08.2023.

9. The civil application stands disposed off.

(KISHORE C. SANT, J.)

P.S.B.