

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
CIVIL APPLICATION NO. 9650 OF 2018 IN
FIRST APPEAL NO. 88 OF 1993

Jagannath s/o Mahadev Khote & others Applicants

Versus

The State of Maharashtra Respondent

Mr. R. J. Nirmal, Advocate for the applicants.
Mrs. V. N. Patil-Jadhav, AGP for the State.

CORAM : R. M. JOSHI, J.
DATE : 15th FEBRUARY, 2023.

PER COURT :

1. Heard.
2. This is an application seeking restoration of First Appeal No. 88/1993 which came to be dismissed for want of prosecution on 9th June, 2008 and for condonation of delay of 3571 days occurred in preferring the application for restoration of the first appeal.
3. It is the contention of the applicants that the delay caused is not intentional as the applicants came to know about dismissal of the first appeal in the year 2018. Learned counsel for the applicants submits that the other appeals arising out of the same acquisition which were also dismissed in default are already restored.

According to him, since the delay is not deliberate, the present application deserves to be allowed.

4. Learned AGP opposed the said contention. According to her, the appellants would not be entitled for any statutory benefits during the period of delay caused in restoration of the appeal.

5. Perusal of the application shows that it was on account of lack of knowledge on the part of the applications about dismissal of the first appeal, the application for restoration of first appeal could not be filed in time. The order passed in connected appeals indicate that those appeals are also restored to the file.

6. In the circumstances, application deserves to be allowed and the same is accordingly allowed in terms of prayer clauses 'B' and 'C'. Delay caused in filing the application stands condoned. Appeal be restored to the file. Applicants, however, would not be entitled for any interest for this period, if they succeed in the appeal. Civil application stands disposed of.

(R. M. JOSHI)
Judge