

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

**REVIEW APPLICATION NO.40 OF 2021
IN CIVIL APPLICATION NO.8327 OF 2020**

The Executive Engineer Minor Irrigation Osmanabad Through Arun
Bhaskarrao Kulkarni and Anr.

Versus

Vishwas Krushna Gadkar

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Advocate for Applicant : Mr. S. C. Arora

Advocate for Respondent: Mr. S. B. Bhosale

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CORAM : S. G. CHAPALGAONKAR, J.

DATE : 19.06.2023

PER COURT:

1. Heard Mr. Arora, the learned Advocate appearing for applicants and Mr. Bhosale, the learned Advocate appearing for the respondent.

2. By this application, the applicants are seeking review of the order dated 15/03/2021, passed by this Court, in Civil Application No.8327/2020, in First Appeal Stamp No.16014/2020, by which the prayer seeking condonation of delay caused in filing First Appeal has been rejected.

3. Mr. Arora, learned Advocate appearing for the applicants would submit that, respondent / original claimant has also filed an appeal seeking enhancement of compensation against the very same judgment and award that was a subject matter of challenge in the appeal filed by applicants. He would submit that, the appeal filed by the respondent – original claimant was also filed beyond limitation. This Court is pleased condoned the delay in appeal. He would submit that, similar treatment ought to have been given to the applicants by applying principle of parity.

However, application seeking to condone the delay filed in appeal of applicant / acquiring body is rejected by order under review.

4. Mr. Bhosale, the learned Advocate appearing for the respondent would submit that, the delay caused in the appeal filed by the respondent has been condoned after considering the sufficient cause made out in the application. He would submit that, the applicants have suffered rejection of their application since it sans the reason for the condonation of delay.

5. Having considered the submissions advanced by the learned Advocates appearing for the respective parties, this Court called upon Mr. Arora, learned Advocate for the applicants to point out the error apparent on the face of record in the order under review. His contention that, since delay is condoned in the appeal filed by the original claimants, the same treatment ought to have been given to the appellant – acquiring body while dealing with its application for condonation of delay, cannot be accepted. The principle of parity has no role in such matter. It is for the applicant to explain the sufficient cause for delay and based on such consideration, the Court is required to pass appropriate orders.

6. Considering the reasons adopted by this Court in the order dated 15/03/2021, no error apparent on the face of record is found in the impugned order, which is pre-condition to entertain the application seeking the review.

7. In that view of the matter, there is no substance in the application. The application stands rejected.

(S. G. CHAPALGAONKAR, J.)