

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

906 CIVIL APPLICATION NO. 6028 OF 2020
IN FAST/14877/2019

Nagnath Laxman Devkate

.. Applicant

Versus

The Executive Engineer LMI Division,
Latur and Ors

.. Respondents

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WITH

CIVIL APPLICATION NO. 6030 OF 2020
IN FAST/15024/2019

WITH

CIVIL APPLICATION NO. 6029 OF 2020
IN FAST/15026/2019

WITH

CIVIL APPLICATION NO. 6031 OF 2020
IN FAST/15028/2019

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Advocate for Applicant : Mr. H. B. Nandagavale
Advocate for Respondent No. 1 : Mr. A. P. Basarkar
AGP for Respondents No.2 & 3 / State : Mr. K. N. Lokhande

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CORAM : NEERAJ P DHOTE, J.

DATED : DECEMBER 20, 2023

PER COURT :

. Heard Mr. H. B. Nandagavale, learned advocate for the applicant, Mr. A.P. Basarkar, learned advocate for Respondent No.1 and Mr. K.N. Lokhande, learned AGP for the Respondents no. 2 and 3 / State.

2. Learned advocate for the applicants submits that these are

the applications for condonation of delay in filing First Appeals against the Judgment and Award dated 05.09.2011 passed by the learned Reference Court i.e. Jt. Civil Judge, Senior Division, Ahmedpur in L.A.R. Nos.190 of 2009, 191 of 2009, 192 of 2009 and 350 of 2009. He further submits that the applicants shall not claim any interest and statutory benefits for the delayed period and shall file the undertaking in that regard. The learned advocate for the respondent no.1 brought to the notice of this Court that in similar matter i.e. Civil Application No.1703 of 2020 in First Appeal (St.) No.37266 of 2018 decided on 12.08.2022, this Court has condoned the delay.

3. Learned advocate for the respondent no.1 and the learned AGP for the Respondents No. 2 and 3 opposed the application.

4. These are the applications for condonation of 2704 days delay. According to the applicants, the Judgment and order / decree was delivered on 05.09.2011 and thereafter within a month i.e. in the month of October – 2011 they approached the learned advocate. However, since there were Diwali holidays, the learned advocate asked them to come in the month of November - 2011 and the applicants approached their Advocate in the month of November – 2011. The applicants were informed by the advocate that they were awarded meager compensation and the appeal will have to be filed.

5. According to the applicants, their financial position was not sound, but subsequently in the month of October – 2018 the acquiring body deposited the amount, which they had withdrawn in the month of January – 2019 and thereafter they filed appeals with the application for condonation of delay in the month of April – 2019 and thus the aforesaid delay is caused.

6. The law in respect of condonation of delay is well settled by catena of judgments of this Court and of the Hon'ble Apex Court. In recent judgment in the case of **Sheo Raj Singh (Deceased) Through L.R.s and Others vs. Union of India & Anr.**, MANU/SC/1098/2023, the Hon'ble Apex Court has considered the earlier judgment on the subject matter.

7. Considering the settled position in law and for the reasons stated in the applications, the delay of 2704 days caused in filing the appeals is condoned subject to the applicants filing undertaking to the effect that they shall not claim any interest and statutory benefits for the delayed period. The Office to register the appeals. The applications stand disposed of accordingly.

[NEERAJ P DHOTE]
JUDGE