

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

**25 CIVIL APPLICATION NO.10081 OF 2023
IN FAST/27060/2018**

**LATABAI ABHIMANYU GAIKWAD AND ORS
VERSUS
PRASHANT MALLIMKARJUN AND ORS**

Mr.Akash R. Ingle h/f. Mr.B.R. Kedar, Advocate for the applicants.
Mr.D.S. Pawar h/f. Mr. N.C. Swami, Advocate for respondent Nos.1 & 2.

**CORAM : KISHORE C. SANT, J.
DATED : 08.09.2023**

PC :-

01. This application is for restoration of First Appeal No. 27060 of 2018 which came to be dismissed in view of conditional order passed by this Court dated 01.08.2022. While filing the application, there is delay of 249 days. The learned Advocate for the applicant submits that the applicant has in-fact already submitted an undertaking as required by the conditional order. The remaining office objections inadvertently were not noticed by the learned Advocate for the applicants and for this reason the objection could not be removed. This fact was noticed very recently and it is thereafter the applicant has immediately moved this application. He, therefore, submits that the application deserves to be allowed by condoning the delay.

02. Learned Advocate Mr. Pawar for the respondents vehemently opposes the application, submitting that there is no sufficient reason given for

condonation of delay. The conditional order was passed long back and still no steps were taken.

03. After hearing the parties, this Court finds that the appeal is filed by the claimants for enhancement and looking to this aspect the delay deserves to be condoned and all the applicants are heirs of deceased and they have lost earning member of the family.

04. Considering the above, this application deserves to be allowed. The delay stands condoned. The application is accordingly allowed and disposed off.

[KISHORE C. SANT, J.]