

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 3135 OF 2023
IN FAST/27719/2018
WITH
CIVIL APPLICATION NO. 4287 OF 2019
IN FAST/27719/2018

BHIKA PUNDLIK PATIL
VERSUS
DISTRICT COLLECTOR, JALGAON AND OTHERS

WITH

CIVIL APPLICATION NO. 3136 OF 2023
IN IN FAST/27715/2018
WITH
CIVIL APPLICATION NO 4283 OF 2019
IN FAST/27715/2018

JOHRILAL DHANRAJ RAKA
VERSUS
DISTRICT COLLECTOR, JALGAON AND OTHERS

WITH

CIVIL APPLICATION NO. 3134 OF 2023
IN FAST/27717/2018
WITH
CIVIL APPLICATION NO. 4286 OF 2019
IN FAST/27717/2018

GOPAL RAMNARAYAN KASAT
VERSUS
DISTRICT COLLECTOR, JALGAON AND OTHERS

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Advocate for Applicants : Mr. Jitendra Vijay Patil
AGP for Respondents – State : Mr. A. M. Phule
Advocate for Respondent No.4 : Mr. Rahul Tambe

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CORAM : SMT. VIBHA KANKANWADI AND
ABHAY S. WAGHWASE, JJ.

DATED : 20th JULY, 2023

PER COURT :

1. These applications have been filed for getting the delay of 1227 days condoned in filing application for recall of order dated 06.09.2019 passed by this Court. The present applicants are the original claimants, who had filed the civil applications for condonation of delay as they intended to file first appeal challenging the award.

2. By order dated 29.03.2019, notices were issued to the respondents, however the copies of the applications were not supplied and therefore by order dated 29.04.2019 time was extended for supplying copies of applications to serve the respondents. That was not complied with and therefore on 06.09.2019 conditional order was passed by which time to supply copies was extended by two weeks, but it was also stated that if copies are not supplied within stipulated time, the matter would stand dismissed without further reference to the Court.

3. Heard learned advocate Mr. Jitendra Patil for applicants, learned APP Mr. A. M. Phule for respondent-State and learned advocate Mr. Rahul Tambe for Respondent No.4.

4. The applicants contend that they were in contact with

the earlier advocate, however the advocate painted a picture that the matter is still pending and in process. However, applicants came to know about the impugned order somewhere in May 2022 and then they issued notice to the earlier Advocate, seeking no objection on 26.05.2022. After engaging new Advocate, present applications have been filed.

5. Strictly speaking, we are not much convinced with the reasons. However, important point to be noted is that the earlier applications, by which the applicants wanted to convince for condonation of delay, were in respect of delay of (1) day. As it is stated that the applicants were believing the words of Advocate, they had not taken steps, therefore, though learned Advocate Mr. Tambe for respondent No.4 is strongly opposing the application, taking into consideration the above said reason and also the fact that the applicants are the original claimants, agriculturist, senior citizens, the applications deserve to be allowed.

6. However, the delay will have to be attributed to the applicants and therefore, the applicants will not be entitled to the interest that may be awarded in case of success in the first appeal and therefore the applicants should file, and it is also submitted on behalf of applicants that they will file undertakings that they will

not claim interest from September 2019 to January 2023. On these conditions, the Civil Application Nos. 3135 of 2023, 3136 of 2023 and 3134 of 2023 stand allowed and disposed of.

7. The impugned order dated 06.09.2019 is hereby recalled.

8. It is not necessary now to ask the applicants to comply with the said order in view of the fact that is emerging, that the delay was of (1) day and therefore by this order, we condoned the said delay also. Civil Application Nos. 4287 of 2019, 4286 of 2019 and 4283 of 2019 stand allowed.

9. Registry to verify and register the first appeals.

(ABHAY S. WAGHWASE, J.) (SMT. VIBHA KANKANWADI, J.)