

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

912 CIVIL APPLICATION NO.1827 OF 2020
IN X-APLST/31787/2018

DATTU GYANOBA SATHE
VERSUS
THE STATE OF MAHARASHTRA AND ORS

...
Advocate for Applicant : Mr. P.P. More
AGP for Respondents: Mr. P.M. Kulkarni.

CORAM : S.G. CHAPALGAONKAR, J.
DATE : 3rd August, 2023

ORDER :-

By this application, the applicant/original claimant in LAR No. 31 of 2001 seeks to condone the delay of 3360 days caused in filing the cross objection in First Appeal Stamp No. 25960 of 2010.

2. Mr. More, learned advocate for the applicant submits that the award passed by the Reference Court was subjected to challenge by the State of Maharashtra in FA Stamp No. 25960 of 2010. The said appeal was filed alongwith the application for condonation of delay i.e. C.A. No. 15030 of 2010.

3. This court issued notice in that civil application, vide order dated 27.6.2014. After issuance of notice, the applicants got knowledge that State of Maharashtra has filed the appeal. He submits that the State of Maharashtra, withdrew the appeal on 7.5.2022. Meanwhile, the applicants have filed the present cross objection alongwith application seeking condonation of delay. He submits that although the State has withdrawn the appeal, cross objection can be independently heard and decided. He therefore, urged to condone the delay and register the cross

objection.

4. It is trite that delay caused in cross-objection has to be liberally condoned. The rigors of sufficient cause will have to be liberally construed when it comes to condonation of delay in the matter of cross objection. Further considering the submission that the applicant got knowledge of filing of the appeal after issuance of notice in the application for condonation of delay filed by the State, the period of delay will have to be counted from 2017 when notice was served to applicants.

5. Learned AGP for respondents submit that since the appeal filed by the State is already withdrawn, the present proceeding may not be entertained.

6. The provisions of Order 41 Rule 22 sub-clause (4) provides that even after disposal of the first appeal, the cross-objection or appeal, if any, can be entertained. The present application for delay condonation was filed when the appeal filed by the State was pending consideration. In that view of the matter, a case is made out condone the delay. However, since delay is of 3360 days, the applicant shall not be entitled to receive interest for the delayed period. Hence, the following order :-

O R D E R

[I] Delay of 3360 days caused in filing the cross-objection/cross appeal is condoned, subject to condition that the applicant who has filed cross-objection, shall not claim interest for the delayed period.

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[ii] Cross-objection/cross appeal be registered subject to removal of office objections.

[iiii] Civil application is disposed of.

[S.G. CHAPALGAONKAR]
JUDGE

grt/-