

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 4180 OF 2020 IN
REJECTED CASE NO. 173 OF 2011 IN
FIRST APPEAL ST. NO. 35478 OF 2010

Shivaji S/o Narayan Edhate & others

Applicants

Versus

The State of Maharashtra

Respondent

Mr. S. S. Choudhary, Advocate for the applicants.

Mr. M. M. Nerlikar, AGP for the State.

CORAM : R. M. JOSHI, J.

DATE : 15th FEBRUARY, 2023.

PER COURT :

1. Heard.

2. Learned counsel for the applicants states that First Appeal St. No. 35478/2010 challenging the judgment and award dated 1st December, 2019, passed in LAR No. 314/2003 was filed in time. He further submits that for non-compliance of office objections, the Registrar by passing order dated 8th February, 2011, dismissed the appeal. He claims that the advocate had no knowledge about the said order and hence steps could not be taken in time for restoration of the appeal.

3. Filing of the appeal against the impugned judgment and award indicates that the applicants were vigilant in pursuing their remedy. This Court does not find any intentional act on the part of the applicants for not removing office objections. In any case, the applicants could not have gained anything by not removing office objections which has resulted in dismissal of the appeal. Admittedly, notices were not issued to the respondents. Hence, application can be entertained even without issuing notice to the respondents at this stage.

4. This Court is satisfied with the reasons given in the application for condonation of delay. However, respondents cannot be burdened with interest if the appellants succeed in the appeal and get enhanced compensation. Hence, the ends of justice can be met by denying interest to the appellants on the enhanced compensation for a period of 3222 days, in case they succeed in appeal.

5. In the result, application stands allowed in terms of prayer clause 'B'. Delay occurred in preferring the application stands condoned. Order passed by the Registrar on 8th February, 2011,

dismissing the first appeal is quashed and set aside. Appeal be restored to its stage of dismissal. Office objections be removed within two weeks failing which, the appeal shall stand dismissed without reference to the Court.

6. Civil application stands disposed of.

(R. M. JOSHI)
Judge

dyb

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Issue notice to respondent returnable on 15th March, 2023.

Learned AGP waives service of notice on behalf of the
respondent/State.

(R. M. JOSHI)
Judge

dyb