

Arjun

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.7456 OF 2019

Shri. Doodhnath D. Varma ...Petitioner

V/s.

Shri. Imtiaz Ashfaque Ahmed & Ors. ...Respondents

Mr. Shrishail Sakhare, for the Petitioner.

Mr. A. P. Vanarase, AGP, for the Respondent Nos.2 to 5-State.

**CORAM : MADHAV J. JAMDAR, J.
DATED : OCTOBER 23, 2023**

P.C.:

- 1.** Heard Mr. Sakhare, learned counsel appearing for the Petitioner and Mr. Vanarase, learned AGP for Respondent Nos.2 to 5-State.
- 2.** The contesting Respondent No.1 has been served; however, none appears for the Respondent No.1.
- 3.** The impugned order in the present Writ Petition is the order dated 19th November 2018 passed by the Additional Commissioner, Konkan Division in Appeal/Desk/LND/1060/2017 filed challenging the legality and validity of the order dated 15th June 2017 passed by the Deputy Collector (Appeals), Mumbai Suburban District.

4. By the impugned order dated 19th November 2018, the Additional Commissioner, Konkan Division has rejected the delay condonation Application in filing the said Appeal before the Additional Commissioner, Konkan Division and, therefore, consecutively dismissed the said Appeal.

5. The factual position on record shows that the impugned order in Appeal before the Additional Commissioner, Konkan Division is dated 15th June 2017. The certified copy of the said order was received on 20th July 2017 and, thereafter, the Appeal was filed on 27th October 2017.

6. In the Application for delay condonation, the Petitioner has given reasons about the delay. The delay is only of 41 days. The Petitioner tenders an affidavit dated 17th August 2023 enclosing copy of the said delay condonation Application. Sufficient reasons are set out in the delay condonation Application filed in Appeal before the Additional Commissioner, Konkan Division. Apart from the fact that sufficient reasons are set out in the delay condonation Application, the delay is also not exorbitant.

7. Accordingly, the impugned order dated 19th November 2018 passed the Additional Commissioner, Konkan Division in Appeal/Desk/LND/1060/2017 is quashed and set aside, and the delay in filing Appeal challenging the order dated 15th June 2017 passed by the Deputy Collector (Appeals) is condoned and

accordingly, the said Appeal filed before the Additional Commissioner, Konkan Division is restored to the file of the Additional Commissioner, Konkan Division.

8. The Additional Commissioner, Konkan Division to proceed with the said Appeal in accordance with law.

9. The Writ Petition is disposed of in above terms with no order as to costs.

[MADHAV J. JAMDAR, J.]