

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

**CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 3682 OF 2015
IN / WITH
FIRST APPEAL (ST) NO. 31032 OF 2010**

The State of Maharashtra and Anr.

...Applicants

Versus

Vitthal Ramling Nanware and Ors.

...Respondents

Ms. Tanaya Goswami, AGP for the Applicant.
None for the Respondent.

CORAM: M.M.SATHAYE J.

DATE : 6th DECEMBER, 2023

PC. :

1. This is an Application by the Applicant No. 1 State and Applicant No. 2 Executive Director, Krishna Khore Vikas Mahamandal for condonation of delay of 218 days in filing the above First Appeal. Office note shows that this Appeal was earlier dismissed but the same was restored in April 2014. It further appears from the record that Respondent Nos. 1 and 2 are reported to be dead as per Bailiff Report. Bailiff Report is dated 11.04.2016 and therefore obviously Respondent Nos. 1 and 2 have died before that date and in any case more than 7 years have passed thereafter. Till date no Application is filed by the Applicant-State and Krishna Khore Vikas Mahamandal, for bringing their legal heirs on record.

2. In view of the death of Respondent Nos. 1 and 2, the impugned Judgment and Order passed in L.A.R. No. 1 of 2005 has attained finality so far as their legal heirs are concerned. Therefore assuming that sufficient cause is made out by the Applicants for

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condonation of delay and assuming that the Appeal is restored vis-a-vis Respondent No. 3, there will be a possibility of conflicting orders being passed as between Respondent No. 3 on one hand and legal heirs of Respondent Nos. 1 and 2 on the other.

3. In that view of the matter, no useful purpose will be served by condoning the delay and hearing the matter on merits. In these peculiar facts and circumstances, in the considered view of this Court, the Appeal must abate in its entirety.

4. Considering the aforesaid facts and circumstances and also considering the fact that the amount of compensation granted under the impugned Order (Rs. 72,850/- with statutory benefits) is not substantially high, the present Application is dismissed.

5. In view of dismissal of delay condonation Application, the above First Appeal is also dismissed. No order as to costs.

6. In view of the dismissal of Appeal, the Respondents/Claimants are at liberty to withdraw the amount of compensation, if deposited by the State in the Reference Court along with accrued interest, if not already withdrawn.

7. All concerned to act upon authenticated or digitally signed copy of this order.

[M.M.SATHAYE,J.]