



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 2331 OF 2023 IN
SECOND APPEAL ST. NO. 3629 OF 2023

The State of Maharashtra

.. Applicant

Versus

Bhagwansing Gumansing Girase & another

.. Respondents

Mr. D. B. Bhange, AGP for the State.

Mr. A. R. Syed, Advcoate for respondents No. 1 and 2.

WITH
CIVIL APPLICATION NO. 4676 OF 2023 IN
SECOND APPEAL ST. NO. 9082 OF 2023

The State of Maharashtra

.. Applicant

Versus

Navalsing Mansing Girase & another

.. Respondents

Mr. S. V. Hange, AGP for the State.

Mr. A. R. Syed, Advcoate for respondents No. 1 and 2.

CORAM : R. M. JOSHI, J.

DATE : 30th JANUARY, 2024.

PER COURT :

1. These applications are for condonation of delay of 239 and 230 days respectively in preferring the appeals.

2. Perusal of the applications shows that delay is essentially for administrative reasons. It is specifically averred in the applications that delay is not intentional and on account of administrative exigencies during Covid 19 Pandemic situation and lock down, regular work was disturbed and therefore appeals could not be filed in time.

3. Learned AGP submits that the suit is filed for seeking declaration in respect of the sale-deed execution for the purpose of acquisition. It is his contention that the exorbitant amount involved in the sale-deed was not paid and hence suit came to be filed for seeking cancellation of the sale-deed. It is his contention that there was fault on the part of concerned officers in executing sale-deeds for exorbitant consideration. He also claimed that huge public exchequer is involved in the present case.

4. Learned counsel for respondent/original plaintiff, on the other hand, opposed the applications by contending that no satisfactory reason has been assigned by the State for not preferring the appeals in time. To support his submissions, he placed reliance

on judgment of Hon'ble Apex Court in case of Office of the Chief Post Master General and others vs. Living Media India Ltd. And others, MANU/SC/0132/2012. He drew attention of this Court to paragraphs No. 11 to 13 which deal with situation when there being no plausible and acceptable explanation for condonation of delay.

5. In the instant case, undisputedly, though Covid 19 Pandemic was on the verge of decline, however, there were certainly constraints on the Government machinery in order to discharge regular/non-emergent work. Thus, it is not a case that there is absolutely no reason for condonation of delay or malafides can be attributed to appellant. In the case dealt with Hon'ble Apex Court, there was no explanation put forth with regard to condonation of delay and in those circumstances, condonation of delay was refused.

6. Apart from the fact that public exchequer is involved in the present case, respondents/plaintiffs are unable to show that respondent would be put in irreversible disadvantageous position by condonation of delay. Having regard to the facts and circumstances of the case and explanation put forth by applicants in not preferring appeals in time, it is a fit case to allow applications for condonation

of delay. Hence, applications stand allowed in terms of prayer clause 'B'. Appeals be registered.

(R. M. JOSHI)
Judge

dyb

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

SECOND APPEAL ST. NO. 3629 OF 2023

The State of Maharashtra .. Appellant

Versus

Bhagwansing Gumansing Girase & another .. Respondents

Mr. D. B. Bhange, AGP for the State.

Mr. A. R. Syed, Advocate for respondents No. 1 and 2.

WITH
SECOND APPEAL ST. NO. 9082 OF 2023

The State of Maharashtra .. Appellant

Versus

Navalsing Mansing Girase & another .. Respondents

Mr. S. V. Hange, AGP for the State.

Mr. A. R. Syed, Advocate for respondents No. 1 and 2.

CORAM : R. M. JOSHI, J.
DATE : 30th JANUARY, 2024.

PER COURT :

At the request of learned AGP, stand over to 21st February,
2024.

(R. M. JOSHI)
Judge