



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

930 CIVIL APPLICATION NO. 1916 OF 2020
IN FAST/27274/2018

GOVIND MANIKA HAMBARDE
VERSUS
THE COLLECTOR NANDED AND ANR

...

Mr. S. K. Adkine, Advocate for Applicants
Mr. S.V. Hange, AGP for Respondents

CORAM : Y. G. KHOBRAGADE, J.
DATE : 18th April, 2024

ORDER:

1. Heard Advocate Mr. S. K. Adkine, the learned counsel for the applicant and Mr. S. V. Hange, the learned AGP for the respondents State.
2. By the present application, the applicant prayed for condonation of delay of 25 years and 122 days caused while lodging the first appeal against the judgment and award dated 04.02.1993 passed by the Reference Court in LAR No. 214 of 1988.
3. The learned counsel appearing for the applicant submits that the applicant is a poor agriculturist and due to acquisition of his land, his financial condition become worst, therefore, he could not arrange funds for court fees and therefore, delay of more than 25 years and 122 days caused, which is bonafide and substantial.

4. In support of his submissions, the learned counsel appearing for the applicant placed reliance on the order dated 30.03.2023 passed by the Coordinate Bench of this Court in Civil Application No. 12070 of 2018, whereby the delay of 23 years caused in filing appeal has been condoned by considering the case of **Prashant Gulab Rathod and others Vs. Sate of Maharashtra and others**(In Review Application No.553/2021 in First Appeal St. No.22555/2019 decided on 15th December, 2023).

5. Per contra, the learned AGP strongly resisted the application on the ground that the ground set out by the applicant for condoning delay about weak financial condition is not a good and sufficient ground and no further explanation has been provided for condonation of more than 25 years delay, hence, prayed for rejection of the application.

6. In the case of **Mohar Singh (Dead) Through Lrs. vs The State Of Uttar Pradesh (Collector)** reported in 2023 14 SCR 842, it has been held that inordinate delay in filing appeal in compensatory matters, per se, may not be fatal as the rights and equities between the parties can be well balanced by denying the statutory benefits, such as interest for the delayed period. Therefore, the delay in filing the first appeal could be condoned subject to the condition that the appellants would not be entitled to receive undue benefit for the delayed period.

7. In the case in hand, delay of 25 years and 122 days caused while lodging the appeal against judgment and award dated 04.02.1993 passed by the Reference Court in LAR No. 214 of 1988. Therefore, considering the ratio laid down in the case of **Mohar Singh** and **Prashant Gulab Rathod** cited supra, the delay of 25 years 122 days is hereby condoned on the condition that the applicant would not claim interest for the delayed period. Further, the appellant shall furnish an undertaking that he would not claim interest for the delayed period of 25 years and 122 days as well as from the date of filing of the present application i.e. 04.09.2018 till passing of this order.

8. The civil application is accordingly disposed off.

9. Office to register the first appeal and place before the Court on 06.05.2024 for further action.

(Y. G. KHOBRAGADE, J.)

JPChavan