



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

918 CIVIL APPLICATION NO. 3645 OF 2023
IN FAST/30475/2010

Shri Kisan Gobaji Aptil Died Th Lrs
Vatsalabai Kkisan Patil And Ors.

.....Applicant

VERSUS

The State Of Maharashtra

.....Respondent

.....
Advocate for Applicant : Mr. A.E. Madne h/f. Mr. A.B. Kale
AGP for Respondent/State : Mrs. P.R. Bharaswadkar
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CORAM : ARUN R. PEDNEKER, J.

Dated : January 23, 2024

PER COURT :-

1. Heard the learned counsel for the parties.
2. Civil Application is filed for condonation of delay of 1401 days caused in filing the first appeal.
3. The learned counsel for the applicants submits that the reference court has dismissed the reference and not awarded any amount to the applicants. The applicants are poor agriculturists. Their land was compulsorily acquired. Due to financial difficulty they could not file appeal in time. The learned counsel for the applicant submits that the applicants will not claim any interest or statutory benefits from 21.5.1986 i.e. the order of dismissal of appeal passed by the reference court to till date. The learned AGP has strongly opposed the application on the ground of huge delay.
4. For the reasons stated in the application and in view of the statement made by the learned counsel for the applicants/appellants, the delay of 1401 days caused in filing the appeal is condoned. The application is disposed of.
5. In first appeal, the learned counsel for the appellants prays for condoning the delay caused in filing application for setting aside the order

of dismissing reference and reference may be restored by submitting that he will not claim any interest or statutory benefits from 21.5.1986 i.e. the order of dismissal of reference in default passed by the reference court to till date. The learned AGP has strongly opposed the application as there is huge delay and the application of the appellants under Order IX, Rule 13 of CPC is already rejected by the Reference Court.

6. Considering the submissions made above and in the interest of justice, the delay caused in filing the application for setting aside the order of dismissal of reference in default is condoned. Reference is restored to original stage. The impugned order dated 8.9.2006 passed by the reference Court is set aside. However, if the reference is allowed in favour of the appellants, the appellants shall not be entitled for any interest or statutory benefits from 21.5.1986 i.e. the order of dismissal of reference in default passed by the reference court to till date i.e. 23.1.2024. The first appeal is also disposed of accordingly. Pending civil applications, if any, are also disposed of.

(ARUN R. PEDNEKER, J.)

ssc/