



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

**1 CIVIL APPLICATION NO. 430 OF 2024 IN  
RAST/33831/2023 IN CA/9989/2015 IN AO/6/2007**

GODAWARI MARATHWADA IRRIGATION DEVELOPMENT CORPORATION  
AURANGABAD THROUGH EXECUTIVE ENGINEER AND ORS

VERSUS

DURGA APPA PAWAR (SINCE DEAD THROUGH HIS  
LEGAL HEIRS KASHIBAI DURGA PAWAR AND OTHERS)

...  
Advocate for applicants : Mr. Santosh B. Mene and Mr. B.R. Survase  
...

**CORAM : MANGESH S. PATIL, J.**

**DATE : 22 FEBRUARY 2024**

**ORAL ORDER :**

Heard.

2. By way of this application, the appellants in Appeal from Order No. 6 of 2007 are seeking review of the order dated 15-03-2022 whereby, observing that the legal representatives of the sole respondent were not brought on record even after lapse of 1955 days of intimation having been furnished by the learned advocate for the sole respondent under Order XXII Rule 10A of the Code of Civil Procedure vide his communication dated 20-08-2011, the application for bringing on record the legal heirs of the sole respondent by setting aside the abatement was rejected and the Appeal from Order was disposed of.

3. Since even for filing the review application again there is a delay of 556 days, the present review application has been filed together with the civil application for condonation of delay.

4. The learned advocate for the applicants takes us through the record and would vehemently submit that the order sought to be reviewed was passed on 15-03-2022. The order was communicated by the panel advocate to the applicants on 29-12-2022. Opinion was given for challenging the order. He would submit that some time was required for soliciting the directions from the divisional authorities and by resorting to the protocol, the application together with the review application has been preferred which has resulted in some delay that was neither deliberate nor intentional. A huge monetary loss will have to be faced if the order regarding appointment of arbitrator remains. In fact, the award has been subsequently passed on 24-08-2005.

5. I have carefully considered the submissions and perused the papers. I am emboldened to state that this is a fit case to be rejected at the threshold.

6. As can be discerned, the applicants are remiss at every stage, not only while opposing the suit wherein the direction was issued under section 20 for appointment of an arbitrator and even while seeking the legal heirs to be brought on record by setting aside the abatement in the Appeal from Order which was made after a lapse of

1955 days. In spite of rejection of the application and dismissal of the Appeal from Order, again delay of 556 days has been caused in seeking a review.

7. Independent of the merits of the review application, even the application for condonation of delay does not make any attempt to demonstrate that there was some sufficient cause which had prevented the applicants in filing the review application in time. The order under review was passed on the applicants' application and in the open court in presence of their learned advocate. In the absence of sufficient cause being demonstrated, even if that results in the consequences which are harsh, those are inevitable. No different parameters can be applied merely because the applicants represent a corporation.

8. Apart from the above state-of-affairs, I had called upon and heard the learned advocate for the applicants, to demonstrate as to how and on what ground even the review application would be maintainable.

9. Pertinently, the Appeal from Order was filed against the sole respondent. He having died his learned advocate had tendered information under Order XXII Rule 10A of the Code of Civil Procedure on 20-08-2011. The application for setting aside the abatement and for bringing on record the legal representatives was filed after a long delay

of 1955 days. That application was rejected by order dated 15 March 2022 with following observations :

*“4. Though it has been averred in the application that soon thereafter the steps were taken and the application was filed, in fact, the application for bringing on record the LRs has been filed after the enormous delay of 1955 days. In spite of the application having been contested on behalf of the proposed LRs of respondent, no attempt has been made to explain the delay. The application is clearly devoid of any statement explaining the delay. There is no iota of material to demonstrate that the delay was not deliberate or intentional. There is absolutely no whisper as to what really had caused the delay or steps taken by the appellant soon after receipt of the information of the death of the sole respondent.*

*5. In the absence of even faint attempt to explain away the enormous delay, the application is liable to be rejected and is accordingly rejected.”*

10. I cannot comprehend as to how in the light of all the aforementioned happenings, a review would be maintainable for any reason. There is no formal defect or error apparent on the face of the record.

11. Be that as it may, there is no sufficient cause for condoning the delay. The application is rejected in *limine*.

**[ MANGESH S. PATIL ]**  
**JUDGE**

arp/