



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**12 CIVIL APPLICATION NO. 15256 OF 2023
IN SAST/38536/2023**

**THE CHIEF OFFICER, MUNICIPAL COUNCIL, BASTMATNAGAR
VERSUS
KANTABAI GULABCHAND AGRAWAL AND ANR**

.....
Advocate for Applicant : Mr. Pathan Hamzakhan I.
Advocate for Respondents : Mr. Gore R.V.
.....

**CORAM : Y.G. KHOBRAGADE, J.
DATE : 15.04.2024**

PC.:-

1. Heard the learned counsel appearing for the respective sides at length.
2. The applicant-Municipal Council has filed the present application for condonation of delay 309 days caused in filing the appeal on the ground that on 03.10.2022 the learned First Appellate Court passed the judgment and decree in RCA No.30/2014. On 12.10.2022, the application for certified copy was presented and the same was received on 13.10.2022, however, certified copy of judgment and decree of the trial Court in RCS No.121/2012 were remained to be obtained. Thereafter, the applicant filed an application for grant of certified copy of the judgment and decree before the trial Court and

after obtaining the same the applicant/Authorized Officer approached the panel counsel and thereafter filed the present appeal for which the delay of 309 days has been caused.

3. The non applicant/original plaintiffs filed reply and strongly opposed the application on the ground that applicant/original defendant has not shown any bona fide and the delay has not been properly explained. So also, administrative exigency is not a bona fide and substantial ground to condone the delay. Hence prayed for rejection of the same.

4. In support of these submissions the learned counsel appearing for the non-applicants placed reliance on the case of **Simplex Infrastructure Limited V/s. Union of India; (2019) 2 SCC 455**, wherein it has been held that administrative difficulties would not be a valid reason to condone a delay above and beyond the statutory period prescribed under Section 34 of the The Arbitration and Conciliation Act, 1996.

5. In the case in hand the appellant-Municipal Council is not challenging the award passed under the Act in which the specific period for delay has been provided under Section 34 of the Conciliation Act. Therefore the ratio laid down in **Simplex Infrastructure Limited cited (supra)** is not at all applicable to the facts and circumstances of the present case. Moreover, the

grounds set out in the application for condonation of delay appears that the applicant immediately filed an application for certified copy of the judgment and decree passed in RCA No.30/2014 and obtained the same on 13.10.2022. However, for want of certified copy of the judgment and decree of the trial Court and other documents the appeal could not be filed within the stipulated period which appears to be justifiable and bona fide.

6. In view of the above discussion, I am inclined to allow the present application and proceed to pass the following order:

ORDER:

- i) The application is allowed.
- ii) The delay of 309 days caused in lodging the appeal is hereby condoned.
- iii) No order as to cost.
- iv) Office to register the second appeal and place it before this Court for further action on 29.04.2024.

[Y.G. KHOBRADE, J.]