



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CIVIL APPLICATION (CAF) NO. 641 OF 2024

IN

FIRST APPEAL ST. NO.11122 OF 2022

YESHWANT S/O JAGANNATH SURKAR

Vrs.

THE STATE OF MAHARASHTRA AND OTHERS

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri Raju S. Yeotkar, Advocate for applicant/appellant.
Ms. D. I. Charlewar, AGP for respondent Nos.1 and 2.
Shri Tejal Thombre, Advocate h/f Shri U. A. Gosavi, Advocate for
respondent No.3.

CORAM: SANJAY A. DESHMUKH, J.
DATE : 04/09/2024.

1. This is an application for condonation of delay of 356 days caused for preferring the appeal.
2. Perused the application.
3. Heard learned Advocates for both sides.
4. Learned counsel for the respondents have strongly opposed the application.
5. The reason stated in the application is that wife of appellant died by Cancer. She was suffering from illness for most of the period. Therefore, applicant could not manage to file appeal within limitation period. The reason given in the application appears to be genuine. Delay is not deliberately caused.
6. Considering all these aspects, the application deserves to be allowed in the interest of justice.

7. The application is allowed and delay of 356 days is condoned.
8. Application is disposed of.
9. It is clarified that the applicant shall not be entitled for the statutory benefits, like interest, etc. if the appeal is allowed and amount of compensation is enhanced in view of Judgment of Hon'ble Supreme Court in the case of **New Okhla Industrial Development Authority v. Rameshwar @ Ramesh Chandra Sharma (Dead), through Legal Heir and another (2022 SCC Online SC 1599)** for the delayed period.

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10. Issue notice to the respondents.
11. Ms. D. I. Charlewar, learned AGP waives service of notice for respondent Nos.1 and 2.
12. Shri Tejal Thombre, Advocate h/f Shri U. A. Gosavi,, learned counsel waives service of notice for respondent No.3.
13. Call for Record and Proceedings.
14. Stand over after six weeks.

[SANJAY A. DESHMUKH, J.]

Choulwar