



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

**CIVIL APPLICATION NO. 4431 OF 2025
IN FAST/11679/2025**

The M.K.V. Development Corporation
The Executive Engineer S K Project, Parada,
Tq Paranda Osmanabad And Others
VERSUS

Jivlag S O Krishna Ghogre Died
Through His L Rs 1 Hirabai w/o Jivlag Ghogre And Others

WITH

**CIVIL APPLICATION NO. 4432 OF 2025
IN FAST/11679/2025**

Mr.A.M.Gaikwad, Advocate for applicants
Mrs.V.A.Shinde, Advocate for respondent no.5

CORAM : AJIT B. KADETHANKAR, J.
DATE : SEPTEMBER 18, 2025

ORDER :-

Being aggrieved by the judgment and award dated 12.01.2023, passed by learned C.J.S.D., Paranda, in LAR No.15/2017, the applicant/appellant has preferred present First Appeal. This is an application for condonation of delay of 713 days. The applicant seeks condonation of delay on the explanation expressed in the application.

2. The applicants/appellants submit that they are public/Government body and there are various processes in filing an appeal in the court. That, the administrative exigency in obtaining various approvals as also requisite funds/court fees consumes much

time, which results into such delay. The applicant further submits that the delay caused in filing the appeal is neither deliberate nor willful nor outcome of any lethargy on the part of any authority. That, valuable interest/right of the applicant/appellant are involved in the matter. The applicant/appellant is the custodian of the funds. It is further submitted that for the reasons stated above, the applicant seeks condonation of delay with a prayer to adjudicate the appeal on its merits.

3. Per contra, the respondents, vehemently, oppose the application and submits that this is an attempt to harass the respondents. The respondents further submits that for the lapses and latches of the applicants/appellants, the respondents must not suffer. With this, the respondents seek rejection of the application.

4. Upon having heard both the parties, I am of the considered view that the administrative exigencies as explained by the applicant generally do result in delay in filing the First Appeals. Its apparent that the delay caused in filing present appeal is a big enough requiring the Court to apply judicious mind cautiously to use the discretion to condone the delay. The parameters to use such discretion are set by various verdicts of the Honorable Supreme Court as also by this Court in various cases.

5. A profitable reference can be made to the Judgment & Order passed by the Honorable Supreme Court in the case of **Sheo Raj Singh (Deceased through LRs.) & Ors. V/s Union of India and ors. [Civil Appeal No.5867 of 2015 dtd.09-10-2023]**. Honorable Supreme Court was dealing with an Appeal wherein High Court's order condoning delay of 479 days caused in filing a First Appeal by the Government against a Judgment & Award passed in Land Acquisition Reference was under challenge.

6. Considering the overall law prevailing in the field of 'condonation of delay in appeals filed by the Government bodies and Authorities', the Honorable Supreme Court approved the view adopted by the High Court to condone the delay.

7. In the present case firstly , the object in challenging the impugned Judgment & Award is averred not only to save the public funds, but to object unjust and irrational consideration rendered by the Ld. Trial Court excepting the concept of 'Just & Fair Compensation'. Secondly, if the appeal is heard on its own merit it would lead to substantial justice. For the delayed period , the charge of interest on the award amount is also running. As such the interest of the claimants is protected enough. Rather if the delay is not condoned, it would result into miscarriage of justice. Thirdly, the

applicant/Appellant has sufficiently and properly explained the delay although not day-to-day. In my considered opinion, present case is squarely covered by the law laid down in “**Sheo Raj case**” (Supra) wherein its held that, length of delay is not decisive in such cases where delay is properly explained.

8. For the reasons stated above, I am of the pragmatic view that by using the judicial discretion, delay in filing present First Appeal deserves to be condoned.

9. Hence I pass following order:-

(i) The delay of 713 days in filing the First Appeal stands condoned. The application stands allowed.

(ii) The Registry to register the appeal, subject to removal of the office objections, if any, by the applicants/appellants. On registration, issue notice to the respondents. Mr.A.M.Gaikwad, learned counsel, waives notice for respondent nos.1 to 5.

(iii) The matter be listed after service of notice is complete. In the meantime, applicants/appellants shall take recourse to Chapter II of the Bombay High Court Appellate Side Rules, 1960, corresponding to the position of the matter.

C.A. for Stay:-

10. Despite order dated 21.04.2025, the applicant -acquiring body has yet not deposited the amount. Learned counsel for the applicants seeks further period of six weeks for depositing the amount. As a last chance, time of further six weeks is granted to deposited to deposit the entire award amount together with accrued interest.

11. Interim relief to continue till then. Costs of Rs.10,000/- is the condition precedent for seeking further extension to deposit such amount.

[AJIT B. KADETHANKAR, J.]

KBP