



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

**CIVIL APPLICATION NO. 1739 OF 2016
IN
FIRST APPEAL STAMP NO. 20338 OF 2015**

Rashid Abdul Pathan

.. Applicant

Versus

The State of Maharashtra and others

.. Respondents

Shri Amardeep F. Naiknaware, Advocate h/f Shri Ramesh V. Naiknavare, Advocate for the Applicant.

Mrs. Ashlesha S. Deshmukh, A.G.P. for the Respondent Nos. 1 and 2.

Shri A. D. Soman, Advocate h/f Shri D. V. Soman, Advocate for the Respondent No. 3.

CORAM : SHAILESH P. BRAHME, J.

DATE : 21ST MARCH, 2025.

FINAL ORDER :

. The applicant is seeking condonation of delay of 651 days caused in preferring appeal against judgment and award dated 04.07.2013. Learned counsel for the applicant submits that cogent reasons have been stated in para Nos. 4 to 6 of the application. The applicant is an agriculturist and there are no malafides on his part in preferring appeal belatedly. It is desirable to condone the delay.

2. Learned Assistant Government Pleader and learned counsel Mr. Soman appearing for the respondent No. 3 would

oppose the submissions of the applicant. The delay is inordinate and the reasons are not convincing.

3. I have gone through the reasons stated in paragraph Nos. 4 to 6 of the application. There is no reason to doubt the grounds mentioned in those paragraphs. No malafides can be inferred by preferring the appeal belatedly. I find that it is desirable to hear the first appeal on merits instead of rejecting it on technicalities of delay. However, the applicant will be getting statutory benefits like interest in case he succeeds in his claim of enhancement. He could not be entitled to the interest and the statutory benefits for the period from filing of appeal till passing of present order. I, therefore, pass following order.

4. The civil application is allowed. The delay of 651 days caused in preferring first appeal stands condoned on condition that the applicant shall be deprived of the interest and statutory benefit from the date of filing of appeal till passing of this order. Office is directed to register the first appeal.

[SHAILESH P. BRAHME J.]

bsb/March 25