



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

**CIVIL APPLICATION NO. 12866 OF 2023
IN FAST/20842/2014**

**TRAMBAK RAMA SABDE DIED HIS LR
GANGABAI TRAMBAD SABDE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...
Advocate for Applicant : Mr. Halkude S.S.
AGP for Respondents/State : Mr. S.M. Ganachari
...

CORAM : SHAILESH P. BRAHME, J.

DATE : 17th APRIL 2025

PER COURT :

. Heard both sides.

2. Applicant is praying for condonation of delay of 955 days in preferring First Appeal, challenging judgment and award dated 27.09.2011 passed by the Reference Court.

3. Learned Counsel for the Applicant adverts my attention to the Paragraph Nos. 2 and 3 as grounds for condonation of delay. It is submitted that there are no malafides in preferring appeal belatedly. The Applicant is deprived of source of income and due to compelling circumstances, appeal is being preferred belatedly. It is informed that in the similar situated appeals, delay was condoned by the coordinate bench vide order dated 23.09.2022 passed in Civil Application

No.2373/2018 in First Appeal Stamp No.20949/2014 in the matter of **Ashok Nivratti Sabde Vs. State of Maharashtra and Others.**

4. Learned AGP vehemently opposes the submissions. He would submit that delay is inordinate and there are lapses on the part of Applicant. If the delay is condoned, the Applicant would be claiming interest for the entire period, in case he succeeds in appeal. It is submitted that no case is made out to condone the delay.

5. I have gone through the Paragraph Nos. 2 and 3 of the application. I am of the considered view that delay has been sufficiently explained. There is no reason for me to doubt the grounds mentioned therein. The coordinate bench has also taken view by order dated 23.09.2022 pressed into service by the Applicant for condonation of delay.

6. Present application is filed on 07.08.2024, but it has not been circulated thereafter. Delay can be condoned subject to the condition that Applicant shall not be entitled to interest of the statutory benefit for the delayed period as well as for the period of the lapses for not circulating application for condonation of delay promptly. In case Applicant succeeds, he becomes entitled to the interest for entire period. To award him interest, for the lapses on his part, would be unjust enrichment. However the compelling circumstances of the Applicant have to be taken into account. It cannot be said that delay is deliberate one and strategical to claim

interest even for the lapses. I deem it appropriate to deprive the Applicant for his lapses after 07.08.2014 till today, to the extent of seven years. Hence I pass following order :

ORDER

(i) The delay stands condoned on condition that the Applicant shall not be entitled to interest as well as statutory benefit for the delayed period of 955 days as well as for the period of seven years from 07.08.2014 till this date.

(ii) Office is directed to register the First Appeal.

SHAILESH P BRAHME
JUDGE

NATJEB..