



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

916 CIVIL APPLICATION NO. 11370 OF 2013
IN FAST/22713/2013

The State Of Maharashtra And Another
VERSUS
Jagannath Kashinath Potdar

WITH
CIVIL APPLICATION NO. 11366 OF 2013
IN FAST/22798/2013

WITH
CIVIL APPLICATION NO. 11368 OF 2013
IN FAST/22795/2013

Mr.S.V.Hange, AGP for applicants – State
Mr.M.L.Dharashive, Advocate for respondent -claimants

CORAM : AJIT B. KADETHANKAR, J.
DATE : SEPTEMBER 30, 2025

ORDER :-

Order in C.A. No. 11370/2013 (for Condonation of Delay):-

Mr.Dharashive, learned counsel for the respondent, informs that the sole respondent, is already died. He shall give appropriate intimation to learned AGP within one week from today, corresponding to which, learned AGP shall take appropriate steps within two weeks thereafter. Stand over after three weeks for further consideration.

2. Mr.Dharashive submits that on behalf of the claimants, legal representatives of deceased Jagannath Potdar have also filed First Appeal, seeking enhancement, which is numbered as 2045 of 2024. He submits that he will take appropriate steps to seek appropriate order for clubbing both the First Appeals together, since the subject matter is one and same.

Order in C.A. Nos. 10368/2013 and 10366/2013 (for Condonation of Delay):-

3. Feeling aggrieved by the judgment and award dated 04.10.2011, passed by learned C.J.S.D., Omerga, Dist. Osmanabad, in LAR No.668/2005, the acquiring body has presented these appeals. There is delay of 574 days in lodging the First Appeal and hence, this Civil Application is lodged seeking condonation of delay caused in filing First Appeal.

4. 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 applicants 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 rights of the applicants/appellants are involved in the matter. The applicants/appellants are the custodian of the funds. It is further submitted that for the reasons stated above, the applicants seeks condonation of delay with a prayer to adjudicate the appeals on its merits.

5. Per contra, the respondents, vehemently, opposes 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 applications.

6. Upon having heard both the parties, I am of the considered view that the administrative exigencies, as explained by the applicants 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.

7. 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.
8. 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.
9. 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. In the present

case, the Appellant has even deposited substantial portion of the Award in the Court which is even withdrawn by the claimant side. 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.

10. 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. Hence I pass following order:-

(i) The delay of 574 days in filing the First Appeals stands condoned. The applications stand allowed.

(ii) The Registry to register the appeals, subject to removal of the office objections, if any, by the applicants/appellants. On registration, issue notice to the respondents. Mr.M.L.Dharashive, learned counsel, waives notice for the respondent.

(iii) Office objections be removed within four weeks, failing which the appeals shall stand dismissed without further reference to the court.

11. Mr.Dharashive, learned counsel, submits that the claimants - Pyarnabee Moula Khairat and Minajbee Moula Khairat have also filed First Appeal Nos.2046 of 2024 and 2047 of 2024, seeking enhancement in the judgment and award impugned in the present First Appeals. He makes a statement that he wish to move to Registrar (Judicial) for clubbing both the matters together.

[AJIT B. KADETHANKAR, J.]

KBP