



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

CIVIL APPLICATION NO. 9517 OF 2023
IN FAST/22951/2023

Executive Engineer, Minor Irrigation Division I, Aurangabad
vs.
Ramrao s/o. Chandrabhan Vanarse and ors.

WITH
CIVIL APPLICATION NO. 9518 OF 2023
IN FAST/22951/2023

Mr.Akash Gade, Advocate for applicants
Mr.S.K.Adikine, Advocate for respondent nos.3, 4A, 4B1 to 4B3
Mr.S.S.Dande, AGP for respondent no.6

CORAM : AJIT B. KADETHANKAR, J.
DATE : SEPTEMBER 12 2025

ORDER :-

Being aggrieved by the judgment and award dated dated 17.12.2019, passed by Ld. 8th Jt. C.J.S.D., Aurangabad, passed by in LAR No.65/2015, the applicant/appellant has preferred present First Appeal. This is an application for condonation of delay of 499 days. The applicant seeks condonation of delay on the explanation expressed in the application.

2. The applicant/appellant 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, Mr.Adkine, learned counsel for the respondents, though reluctant, concedes for condonation of delay. It would be not out of place to mention that the claimants wish to withdraw the amount deposited by the appellants.

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. It is 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. 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.

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.

(i) The delay of 499 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 applicant/appellant. On registration, issue notice to the respondents. Mr.S.K.Adikine, learned counsel for respondent nos.3, 4A, 4B1 to 4B3 and learned , AGP for respondent no.6, waive notice for the respective respondents

(iii) The matter be listed after service of notice is complete. In the meantime, applicant/appellants shall take recourse to Chapter

II of the Bombay High Court Appellate Side Rules, 1960, corresponding to the position of the matter.

Application for Stay :-

Mr.Gade, learned counsel for the applicant/appellant submits that pursuant to the order passed by this court while granting stay to the execution and operation of the impugned judgment and award, the applicant/acquiring body has deposited the entire award amount in this Court. In view thereof, the stay granted earlier by this court is made absolute. The application stands allowed in terms of prayer clauses (B) and (C).

[AJIT B. KADETHANKAR, J.]

KBP