



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

**CIVIL APPLICATION NO. 2246 OF 2024
IN FAST/25632/1999**

**TAMANAPPA MALIKARJUNAPPA PATRIKE (DIED)
THR LRS. BABURAO (DIED) THR LRS. SANJAY B. PATRIKE AND ORS
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Applicants : Mr. Pradeep B. Kulkarni h/f Mr. Narwadkar
Mrigesh D.
AGP for Respondent : Mrs. Chaitali Chaudhari Kutti

...
CORAM : SHAILESH P. BRAHME, J.
DATE : 17th APRIL 2025

PER COURT :

. This application is for restoration of the First Appeal of which registration was refused vide order dated 06.06.2000. Meantime, even the record has also been destroyed by the office.

2. Learned Counsel for the Applicants submits that original claimant - Tamanappa Malikarjunappa Patrike died on 04.02.2004. The status of the appeal was not communicated to the Applicants, who were the heirs of the original Applicant. Even the heirs had filed Civil Application for bringing them on record and for setting aside the abatement. For want of knowledge, steps could not be taken by the Applicants and the delay is not intentional. Learned Counsel submits that he has good case on merits because similarly situated land owners are being granted adequate compensation. He would pray that application be allowed and he is ready to reconstruct the record.

3. Learned AGP submits that there is delay of 8393 days which is inordinate and its condonation will have repercussion on the public exchequer. She would submit that there is gross negligence on the part of the Applicants in prosecuting appeal.

4. I have gone through the paragraph nos. 4 to 8 of the application. It reveals that the Applicants who are the heirs of the original Applicant, were not aware of the status of the appeal. Otherwise they would not have filed application for bringing them on record. There is no reason to cast any doubt for the contents of above paragraphs of the Civil Application. The pragmatic view is to condone delay on certain conditions and to deal with the merits of the appeal. Learned Counsel has undertaken to cooperate the office for reconstructing the record. Hence, I am inclined to allow application on certain conditions :

- (a) The Civil Application is allowed by condoning delay of 8393 days and in terms of prayer clause 'A'.
- (b) Applicants shall not be entitled to interest and statutory benefits for the period of 8393 days, in case they succeed in appeal.
- (c) Applicants shall cooperate the office for reconstruction of the record.

SHAILESH P. BRAHME
JUDGE