



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

FIRST APPEAL NO. 197 OF 2006

The Executive Engineer, Civil Construction, Mseb Beed.

VERSUS

Subhash Pandurang Buskute Died. Thr. Anjali Subhash Buskute And
Ors.

WITH

FIRST APPEAL NO. 738 OF 2006

Subhash Pandurang Bhuskute L.rs. Anjali And Ors

VERSUS

The State Of Mah And Anr

WITH

CIVIL APPLICATION NO. 11924 OF 2025 IN FA/197/2006

The Executive Engineer, Civil Construction, Mseb Beed.

VERSUS

Subhash Pandurang Buskute Died. Thr. Anjali Subhash Buskute And
Ors.

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Mr. A. S. Bajaj & Mr. S. P. Adgaonkar, Advocate for Applicant

Mr. S. B. Jadhav, AGP for respondent-State

Mr. G. K. Thigale, Advocate for Respondent nos.1a, 3 and 4

CORAM : SANJAY A. DESHMUKH, J.

DATED : 02nd DECEMBER, 2025

PER COURT :-

1. This is an application for condonation of delay of 2361 days
caused in filing the present application.

2. Perused the application. Heard learned Advocates for both
the sides.

3. Learned Advocates Mr. A. S. Bajaj & Mr. S. P. Adgaonkar for the appellant submitted that, though there is delay of huge days, it is not deliberately caused. In Civil Application No.3667 of 2019, dated 12.09.2022, this Court has given directions to bring the legal representatives of deceased original appellant no.2 - Nilkanth Chimaji Gunjal on record. He is relying upon ***Mithailal Dalsangar Singh and Others Vs. Annabai Devram Kini and Others***, reported in ***(2003) 10 SCC 691***, in which the Hon'ble Supreme Court has observed as under:

In the different stage of one and the same project, it is not necessary to make prayer at every stage if the legal representatives are brought on record at any stage of the proceeding that enures for the benefit of entire proceedings.

4. He therefore submitted to condone the delay, set aside the abatement and seeks permission to bring the legal representatives of respondent no.2 on record.

5. Learned Advocate Mr. G. K. Thigale for the respondent strongly opposed the application and submitted that the delay is not properly explained and the reasons are not sufficient to condone the delay. He pointed the judgment of ***Pundlik Jalam Patil (Dead) by LRS Vs. Executive Engineer, Jalgaon Medium Project and Another***, reported in ***(2008) 17 SCC 448*** and pointed out paragraph no.14, which reads thus:

14. It is true that the power to condone the delay rests with the court in which the application was filed beyond time and decide whether there is sufficient cause for condoning the delay and ordinarily the superior court may not interfere with such discretion even if some error is to be found in the discretion so exercised by the court but where there is no sufficient cause for condoning the delay but the delay was condoned, it is a case of discretion not being exercised judicially and the order becomes vulnerable and susceptible for its correction by the superior court. The High Court having found that the respondent in its application made incorrect submission that it had no knowledge of the award passed by the Reference Court ought to have refused to exercise its discretion. The High Court exercised its discretion on wrong principles. In that view of the matter we cannot sustain the exercise of discretion in the manner done by the High Court.

6. He submitted that the application lacks the sufficient reasons: therefore, it must be dismissed.

7. On perusal of the application, it appears that respondent no.2 died on 24.01.2019. Admittedly that fact was brought to the notice of this Court while passing order dated 12.09.2022, in which, it was observed and directed to bring the legal representatives of respondent no.2/Nilkanth Chimaji Gunjal on record. There was knowledge of this order to the present applicant; however, it appears that the legal representatives were not brought on record within reasonable time. Considering this aspect the application can be allowed by compensating to the respondent/claimant in terms of money. The application therefore deserves to be allowed upon

payment of costs of Rs.10,000/- to the claimant. Hence, following order:

ORDER

- a. Civil Application is allowed.
- b. Delay of 2361 days caused in filing the application is hereby condoned subject to depositing the cost of Rs.10,000/- in this Court.
- c. Applicants are permitted to bring the legal representatives of deceased respondent no.2/Nilkanth Chimaji Gunjal on record.
- d. Cost be paid to the claimants equally.
- e. Civil Application stands disposed of.

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1. Considering the fact that the both the appeals are more than 14 years old, place both the appeals for final hearing on 09.12.2025, high on board.
2. Amendment be carried out within one week.

(SANJAY A. DESHMUKH, J.)