



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**36 FIRST APPEAL (ST) NO.31852/2022
WITH
INTERIM APPLICATION NO. 1012/2024
WITH
INTERIM APPLICATION NO. 1011/2024
IN
FIRST APPEAL (ST) NO.31852/2022**

**MAHARASHTRA INDUSTRIAL
DEVELOPMENT CORPORATION,
RAIGAD THR.REGIONAL OFFICER**

..APPELLANTS

VS

**SHANKAR KESHAV KODE
(DECEASED) THR. LRS.1.1 TO 1.2 & ORS.**

..RESPONDENTS

Adv. Ashish Gabhale a/w. Adv. Iraa Dube Patil i/b. Jay & Co. for appellants.

Adv. Deepa Punde i/b. Adv. S. S. Punde for respondent no.1.

Mr. A.R. Patil, Addl. G.P for State.

CORAM : RAJESH S. PATIL, J.

DATE : 24 NOVEMBER 2025.

P.C. :

INTERIM APPLICATION NO. 1011/2024 IN FIRST APPEAL (ST) NO.31852/2022 :-

1. This application is filed for condonation of delay in filing the First Appeal.

2. Heard learned counsel for the parties and I have gone through the contents of the application.

3. Supreme Court in the judgment of *Collector, Land Acquisition, Anantnag and another Vs. Mst. Katji and Others* reported in *1987 SC 1353*, has held that:

“Every day’s delay must be explained” does not mean that a pedantic approach should be made. Why not every house’s delay. Every second’s delay ? The doctrine must be applied in a rational common sense pragmatic manner.”

4. Supreme Court in the case of *S. Ganesharaju (Dead) through Lrs V. Narasamma (Dead) through Lrs* reported in *(2013) 11 SCC 341*, more specifically, paragraph Nos. 12 and 13, of the said judgment held that a liberal construction to the cause of delay should be given. The said paragraphs are reproduced herein below:

12. The expression “sufficient cause” as appearing in Section 5 of the Limitation Act, 1963, has to be given a liberal construction so as to advance substantial justice. Unless the respondents are able to show malafides in not approaching the court within the period of limitation, generally as a normal rule, delay should be condoned. The trend of the courts while dealing with the matter with regard to condonation of delay has tilted more towards condoning delay and directing the parties to contest the matter on merits, meaning thereby that such technicalities have been given go-by.

13. The rules of limitation are not meant to destroy or foreclose the right of parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly.

5. Bombay High Court in the judgment of *Kamalbai Narasaiyya*

Shrimal and Another Vs. Ganpat Vithalrao Gavare reported in **2007**

(1) MH. L.J. 807, paragraph Nos.13 and 15 has held:

13. The factual position is manifestly clear on bare perusal of the application for condonation filed by the petitioners before the learned District Judge. The only relevant statement in the application is thus:

“The delay caused in preferring the appeal is of six months. The caused delay is not intentional one. The appellants are poor and helpless persons. If the delay is not condoned appellant may cause irreparable loss which cannot be compensated in terms of money. The suit was for recovery of possession and present appellants are tenants. If the delay is not condoned then appellants will become shelterless.”

15. The expression “sufficient cause” cannot be erased from section of the Limitation Act by adopting excessive liberal approach which would defeat the very purpose of section 5 of the Limitation Act. There must be some cause which can be termed as a sufficient one for the purpose of delay condonation. I do not find any such “sufficient cause” stated in the application and as such no interference in the impugned order is called for.”

6. According to me, considering the submissions and the law laid down in various judgments, a case is made out to allow the Civil Application.

7. The application is allowed in terms of prayer clause (A) and disposed of accordingly.

FIRST APPEAL (ST) NO.31852/2022 :-

8. Heard learned counsel for the parties.

9. Admit.

10. The appellants to file private paper-book within six months from today. A copy of the same to be served on other side.

11. Soft copy of R & P be sent by the trial Court to the High Court within 4 weeks from today. Original R & P should be preserved by the trial Court till further orders of this Court. Original R & P to be sent to the High Court when called for.

12. Parties to file a compilation of documents, short synopsis along with their preposition of law and authorities relied upon by them within one week from today.

INTERIM APPLICATION NO. 1012/2024 IN FIRST APPEAL (ST) NO.31852/2022 :-

13. This application is filed seeking stay to the execution of the Judgment and Decree dated 22 April 2021.

14. Heard learned counsel for the parties and I have gone through the contents of the application.

15. Learned counsel for both the parties submit that the Acquiring Body has deposited the entire decretal amount along with accrued interest before the Reference Court. The original claimants have filed the application seeking withdrawal of the said amount.

16. The Reference Court will hear the parties in the said withdrawal application and decide the same on merits as soon as possible, and in any case, on or before 31 January 2026.

17. In view of the above, Interim Application is disposed of.

(Rajesh S. Patil, J.)