

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 3382 OF 2025
IN
FIRST APPEAL(ST) NO. 37156 OF 2024

Shripati Gundu Naik And Anr

...Applicants

Versus

Bhagwan Kedarnath Mishra (Since Deceased) Thr.

...Respondents

Lrs. 1a. Deep Narayan Mishra And Ors.

Mr. Aniket Ranade a/w Aditya Patil for the Applicants.

Mr. Pradeep Patil i/b Komal Punjabi for Respondent No.2/BMC.

Mr. R.R. Oja i/b Mr. A.R. Pande for Respondent Nos. 1(a) to 1(e).

CORAM : M.M. SATHAYE, J.

DATE : 14th AUGUST, 2025

P.C. :

1. Heard learned advocate for the Applicants and learned advocate for Respondent Nos. 1a to 1e and Respondent No.2/ Municipal Corporation.

2. The application is filed for condonation of delay of 236 days in filing First Appeal. The application states that the Applicants did not receive the intimation of the impugned order and therefore, delay is caused in filing the appeal.

3. Perused the application and impugned judgment. It appears that impugned judgment was passed on 26.03.2024, however, it was signed on 06.04.2024. The certified copy itself was applied belatedly on 27.06.2024 after a period of about 3 months. The certified copy was collected on 28.06.2024. Delay condonation application was affirmed on 29.08.2024 but ultimately the appeal is filed in December 2024.

4. Learned Counsel for the contesting Respondents contended that the delay in applying certified copy and delay in actual filing of first appeal is not

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satisfactorily explained.

5. The Court cannot loose site of the fact that the proceedings which are filed belatedly are in nature of substantive first appeal, which is last fact-finding court for the dispute between the parties. But at the same time, a valuable right accrues to successful party once limitation period is over. Therefore these factors need balancing.

6. It is important to note that the Applicant had already affirmed the application in August 2024, which indicates clear intention of filing necessary appeal in August 2024 itself. But for the reasons, which this Court does not wish to comment upon, actual appeal seems to have been lodged in Deceased 2024. Lenient approach is necessary to be adopted for advancement of substantial justice. Considering the extent of delay, it can be compensated by necessary order of costs.

7. Considering the circumstances narrated above, sufficient cause is made out for delay condonation, but with costs.

8. Hence, subject to Applicant paying costs of Rs.25,000/- to Respondent No.1(a) (Mr. Deep Narayan Mishra) who will accept the same on behalf of all Respondent Nos. 1(a) to 1(e), within a period of 4 weeks from today, this application is allowed, delay is condoned.

9. Payment of costs to be made directly in favour of Respondent No. 1(a) and its proof be submitted to the Registry within same time-frame.

10. Needless to mention that if costs are not paid in time, delay will not be condoned.

(M.M. SATHAYE, J.)