

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL (ST) NO.34123 OF 2024
WITH
INTERIM APPLICATION NO.4163 OF 2025
WITH
INTERIM APPLICATION NO.4164 OF 2025

Executive Engineer, Kadwa
Canal, Sinchan Bhavan, Nashik ... Appellant

V/s.

Sandip Kisan Khalkar And Anr. ... Respondents

SHARADA
RANGNATH
WAHULE

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SHARADA
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Mr. Mahesh Pawar with Ms.Chaitrali Deshmukh for the Applicant.
Mr. Sachin Gite, for the Respondent No.1.
Mr. A. R. Patil, AGP for State-Respondent No.2.

CORAM : RAJESH S. PATIL, J.

DATED : 16th September 2025

P.C.:

INTERIM APPLICATION NO.4163 OF 2025

1. This Application is filed by the Applicant for condonation of delay of 1 year and 117 days in filing the First Appeal.
2. Heard counsel, appearing for the Parties. I have gone through the contents of the application and in Paragraph No.5, delay has been explained which runs into 4 pages.
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. Considering the law as laid down by the Supreme Court and submissions made in the Interim Application, I am satisfied that the grounds are made out to allow the present delay condonation Applicant.

7. Hence, the Interim Application is allowed in terms of prayer clause (b).

INTERIM APPLICATION NO.4164 OF 2025

1. This Interim Application is filed seeking stay to the execution and implementation of the impugned Judgment and Award dated 4th May 2023 passed by the Civil Judge, Senior Division, Niphad in L.A.R. No.53 of 2012.

2. Subject to the State depositing the entire Award amount along with accrued interest in the Reference Court, there will be stay to the execution of Judgment and Award dated 4th May 2023 passed by the Civil Judge, Senior Division, Niphad in L.A.R. No.53 of 2012.

(RAJESH S. PATIL, J.)