

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 6837 OF 2012
IN
FAST/12409/2012

WITH
CA/6838/2012 IN FAST/12409/2012
WITH
CA/6839/2012 IN FAST/12583/2012
WITH
CA/6840/2012 IN FAST/12583/2012
WITH
CA/6841/2012 IN FAST/12579/2012
WITH
CA/6842/2012 IN FAST/12579/2012
WITH
CA/6843/2012 IN FAST/12575/2012
WITH
CA/6844/2012 IN FAST/12575/2012

THE STATE OF MAHARASHTRA AND ANR
VERSUS
RAGHUNATH BHANUDAS BHAWAR

...

Advocate for Applicants : Smt. V.A.Shinde

...

CORAM : K. K. TATED, J.

Dated: August 28, 2014

...

PER COURT :-

1. Heard learned AGP Mrs.V.A.Shinde for the applicant. All these Civil Applications can be disposed of by common order because the averments made in the Civil Applications are similar in all these matters.

2. These applications are preferred by original respondent / State of Maharashtra for

condonation of 1187 days delay in filing First Appeals challenging the judgment and award dated 8th July, 2008, passed by District Judge-III, Beed, in Land Acquisition References.

3. Learned A.G.P. submits that in the present proceedings the Reference Court has passed judgment and award on 8th July, 2008. Thereafter, applicant, immediately applied for certified copy on 13th August, 2008, and the same was ready for delivery on 26th Nov., 2008. She submits that the applicant collected certified copies on 6th Dec., 2008. She submits that after collecting the certified copies, the Government Pleader who appeared before the Reference Court, submitted his opinion to the Law and Judiciary Department. The Law and Judiciary Department, after scrutinizing the opinion of District Government Pleader and the judgment and award passed by the Reference Court, decided to prefer these First Appeals in this Court. She submits that, Law and Judiciary Department granted sanction for filing these First Appeals in this Court on 13th December, 2010. As soon as the said sanction letter was received by the Office of the Government Pleader, at Aurangabad, the Government Pleader by its letter dated 18th Dec., 2010, called upon the Special Land Acquisition Officer to furnish certified copy of impugned judgment and award along with typed

copies, difference chart for calculating Court fees and requisite amount of Court fees. She submits that concerned Special Land Acquisition Officer complied all these requirements on 6th March, 2012 and, thereafter, immediately filed these First Appeals in this Court on 26th April, 2012. She submits that there is delay in filing the First Appeals because of the procedure prescribed by the State to file First Appeals in this Court. She submits that before filing First Appeals in this Court, it is the duty of the concerned Government Pleader who appeared before the Reference Court to forward his opinion to the Law and Judiciary Department. Thereafter, the Law and Judiciary Department considers the said opinion and the impugned order passed by the Reference Court and decides for filing First Appeal in this Court. If decision is taken by the Law and Judiciary Department to file First Appeal in this Court, they have to issue sanction letter. As soon as the sanction letter is received in the office of the Government Pleader, it is the duty of the Government Pleader to verify all the papers. If there is any deficiency, they call upon the Special Land Acquisition Officer to comply the same. In this process, there is delay in filing all these First Appeals. She submits that Reference Court awarded compensation on higher side. Hence, delay, in the interest of justice, may be

condoned.

4. I heard learned A.G.P. at length.

5. In the present proceedings, though the certified copies were collected by the applicant on 6th Dec., 2008, the Law and Judiciary Department granted sanction on 13th Dec., 2010, for filing First Appeals in this Court. There is no explanation in the entire civil application why the Law and Judiciary Department took more than two years in granting the sanction. There is no explanation in the Civil Application why the Special Land Acquisition Officer took more than one and half year in supplying the certified copy along with typed copies and requisite amount of Court fees to the office of the Government Pleader at Aurangabad. For want of all these material facts, I am of the opinion, that the applicant has not shown sufficient cause for condonation of 1187 days delay in filing these first appeals.

6. Our High Court in the matter of "**Laxman Divekar V/s State of Maharashtra**" reported in **1998 (1) Mh.L.J. 745** held that Court has no power to arbitrarily condone the delay in the name of advancing substantial justice just because the applicant happen to be the State. No separate standard exists to determine the sufficient cause at the instance of private party and the State.

7. The Apex Court in the matter of "**Damodar Pillai V/s South Indian Bank Ltd.**" reported in **2005 (5) ALL MR 961 (SC)** held that the principles underlying the provisions prescribing limitation are based on public policy aiming at justice, the principles of repose and peace and intended to induce claimants to be prompt in claiming relief.

8. Our High Court, in the matter of "**Special Land Acquisition Officer and another V/s Jose Prezares De Piedade Pinto**" reported in **2006 (2) Bom.C.R. 773** held that the delay caused due to movement of file from one table to another cannot be a reason for condonation of delay. In that matter, our High Court rejected application preferred by State of Maharashtra for condonation of 281 days in filing first appeal challenging the judgment and award passed by the Reference Court in Land Acquisition matter.

9. The Apex Court in the matter of "**Lanka Venkateswarlu V/s State of A.P.**" reported in **2011 (4) Mah.L.J. 104** held that in application for condonation of delay the Court do not enjoy unlimited and unbridled discretionary powers to condone the delay. In similar way, the Apex Court in the matter of "**Maniben Devraj Shah V/s Municipal Corporation of Brihan Mumbai**" reported in **2012 (5) SCC 157** held that substantive rights of parties should not be ignored because of

delay. No premium can be given for total lethargic or utter negligence of the State Officers/ Machineries/ Agencies/ instrumentalities and the condonation of delay caused by such officers cannot be allowed as a matter of course of accepting plea that dismissal on ground of limitation will cause injury to public interest.

10. The Apex Court in the matter of **"Basavraj & Anr. V/s The Special Land Acquisition Officer"** reported in **2013 (10) SCALE 391** held that it is settled legal position that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The Court has no power to extend the period of limitation on equitable grounds. Unlimited limitation would lead to a sense of insecurity and uncertainty and, therefore, the limitation prevents disturbance and deprivation of what may have been acquired in equity and justice by long enjoyment and that may have lost by a party's inaction, negligence or laches. Para 12 and 13 of this authority reads, thus:

"12. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The Court has no power to extend the period of limitation on equitable grounds. "A result flowing from a statutory provision is never an

evil. A Court has no power to ignore that provision to relieve what it considers a distress resulting from its operation." The statutory provision may cause hardship or inconvenience to a particular party but the Court has no choice but to enforce it giving full effect to the same. The legal maxim "dura lex sed lex" which means "the law is hard but it is the law", stands attracted in such a situation. It has consistently been held that, "inconvenience is not a decisive factor to be considered while interpreting a statute."

"13. The State of Limitation is founded on public policy, its aim being to secure peace in the community, to suppress fraud and perjury, to quicken diligence and to prevent oppression. It seeks to bury all acts of the past which have not been agitated unexplainably and have from lapse of time become stale."

According to Halsbury's Laws of England, Vol.24, p.181:

"330. Policy of Limitation Acts. The courts have expressed at least three differing reasons supporting the existence of statutes of limitations namely, (1) that long dormant claims have more of cruelty than justice in them, (2) that a defendant might have lost the evidence to disprove a stale claim, and (3) that persons with good causes of actions should pursue them with reasonable diligence".

" An unlimited limitation would lead to a sense of insecurity and uncertainty, and therefore, limitation prevents disturbance or deprivation of what may have been acquired in equity and justice by long enjoyment or what may have been lost by a party's own inaction, negligence' or laches".

11. In similar way, the Apex Court, in the matter of **"Esha Bhattacharjee V/s Managing Committee of Raghunathpur Nafar Academy"** reported in 2013 (12) S.C.C. 450 held that, Court should

not condone a delay unless and until sufficient cause is shown.

12. In view of the facts and the law declared by the Apex Court, as stated here-in-above, I do not find any substance in the present civil applications for condonation of delay.

Hence, all the Civil Applications for condonation of delay are dismissed.

15. In view of dismissal of applications for condonation of delay, all the civil applications for stay do not survive and stand dismissed.

16. In view of rejection of Civil Applications for condonation of delay, registration of first appeals stands rejected.

(K. K. TATED, J.)

...