GAHC030005952025

# THE GAUHATI HIGH COURT
## (HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

**Case No. : I.A.(Civil)/159/2025**

Sh. H. Biakhnuna
S/o Rosiama (L), R/o Thenzawl, Lungrang Veng, Mizoram

VERSUS

Sh. L. Rallianzuala and 3 Ors.
S/o Thanseia, R/o Ramthlun Veng, Serchhip, Serchhip District 2:The Secretary to the Government of Mizoram
Land Revenue and Settlement Department
Aizawl

3:The Director
Land Revenue and Settlement Department
Government of Mizoram

4:The Assistant Settlement Officer
Land Revenue and Settlement Department
Serchhip Distric

**Advocate for the Petitioner** : Mr A.R. Malhotra

**Advocate for the Respondent** : Addl. AG/GA, Mizoram for R2-R4

Date on which Judgment was reserved : 17.06.2026

Date of pronouncement of Judgment : 24.06.2026

Whether the pronouncement is

of the operative part of the Judgment ? : NA

Whether the full Judgment has been

pronounced ? : Yes

**:::BEFORE:::**

**HON'BLE MR. JUSTICE ANJAN MONI KALITA**

**JUDGMENT & ORDER (CAV)**

***Dated: 24.06.2026***

Heard Mr. A. R. Malhotra, learned counsel appearing on behalf of the applicant. Also heard Mr. K. Vanlalneihpuia, learned counsel for the respondent No.1 as well as Mr. Samuel Vanlalhriata Chhangte, learned Additional Advocate General, representing the State respondents.

**2.** The instant application under Section 5 of the Limitation Act 1963 has been filed by the applicant praying for condoning the delay of 1163 days in filing the connected appeal against the impugned Judgment and Order dated 25.03.2022, passed by the learned Senior Civil Judge, Serchhip District, Serchhip, in Title Suit No. 01/2016.

**3.** The pleadings and contentions raised in the instant application, being relevant are extracted hereinbelow:

> " 2. That due to bona fide but inadvertent reasons the appeal is being filed beyond the period of limitation prescribed by law which are stated below:
>
> i) That from the Order Sheet of Title Suit No.1/2016, it appears that the learned Trial Court had conducted final hearing of the suit on 7/12/2021 in the absence of the Applicant/Defendant No.4 and had fixed 24/1/2022 for

pronunciation of Judgment & Order. A copy of Order dt.7/12/2021 is at Annexure -1.

ii) The Order Sheet of the Title Suit No.1/2016 shows that on 24/1/2022, the Court was adjourned because the learned Trial Judge was on leave and the suit was fixed for 18/2/2022 for Judgment & Order. However, no summons/notices were issued to the parties informing them of the next Court date and the Order dt. 24/1/2022 is at Annexure-2.

iii) The Order Sheet of the Title Suit No.1/2016 again shows that on 18/2/2022, the Court was adjourned as the learned Trial Judge was on Official Duty and the suit was fixed for 25/3/2022 for Judgment & Order. However, no summons/notices were issued to the parties informing them of the next Court date and the Order dt.18/2/2022 was not signed. A copy of Order dt.18/2/2022 is at Annexure-3

iv) The Order Sheet of the Title Suit No.1/2016 shows that the learned Trial Court had pronounced the Judgment & Order on 25/3/2022 in the presence of the Respondent No.1/Plaintiff and the Respondents No.2, 3 & 4/Defendants No.1, 2 & 3 and in the absence of the Applicant/Defendant No.4. A copy of Order dt. 25/3/2022 is at Annexure 4.

v) The Judgment & Order dt.25/3/2022 being pronounced by the learned Trial Court in the absence of the Applicant/Defendant No.4 and his Counsel without issuing prior notice to them, the Applicant/Defendant No.4 was unaware of the pronouncement of the Judgment & Order dt.25/3/2022.

vi) Thereafter, the Applicant/Defendant No.4 was surprised to receive a

Letter Memo No.C.18018/1/2024- LRS(S) dt.26/11/2024 from the Revenue Department, Serchhip District informing him that in accordance with the Order No.277/SCJ(SCHP)/2022 dt.25/3/2022 passed by the Senior Civil Judge, Aizawl Judicial District, Serchhip, the suit land was to be re-demarcated on 3/12/2024 and directing him to be present on the suit land. A copy of the Letter dt.26/11/2024 is at Annexure - 5.

vii) The Applicant/Defendant No.4 had accordingly gone to the site of the suit land on 3/12/2024 wherein he was informed by the representative of the Revenue Department, Serchhip District that the suit had already been disposed in favour of the Respondent No.1/Plaintiff.

viii) The Applicant/Defendant No.4 had subsequently gone to Aizawl on 10/12/2024 to consult his Lawyer about the disposal of the suit by the learned Trial Court in favour of the Respondent No.1/Plaintiff as informed to him by the representative of the Revenue Department, Serchhip District and what remedies were available to him. The Lawyer for the Applicant/Defendant No.4 had then advised him to first obtain a copy of the Judgment & Order dt. 25/3/2022 from the learned Trial Court and to consult him again thereafter.

ix) The Applicant/Defendant No.4 had returned to his home town on 13/12/2024 but due to the winter vacation, the Applicant/Defendant No.4 could not take immediate steps for obtaining the certified copy of the Judgment & Order dt.25/3/2022.

x) After the Court's had re-opened in the third week of January, 2025, the Applicant/Defendant No.4 had requested his Lawyer to obtain a certified copy of the Judgment & Order dt.25/3/2022 along with the copies of the

necessary documents and the Lawyer for the Applicant/Defendant No.4 had informed him that he would take necessary steps.

xi) The Applicant/Defendant No.4 had then approached his Lawyer in the last week of February, 2025, to enquire whether his Lawyer had obtained the certified copy of the Judgment & Order dt.25/3/2022 along with the other necessary documents but his Lawyer had failed to obtain the same.

xii) Thereafter, on the request of the Applicant/Defendant No.4, his Lawyer had applied for a certified copy of the Judgment & Order dt.25/3/2022 and other necessary documents on 10/3/2025 which were furnished by the learned Trial Court on 5/6/2025.

xiii) After obtaining a certified copy of the Judgment & Order dt.25/3/2022 and other necessary documents, the Lawyer for the Applicant/Defendant No.4 had informed the Applicant/Defendant No.4 on 11/6/2025 to come to Aizawl to discuss the matter.

xiv) However, the Applicant/Defendant No.4 could not go to Aizawl on 11/6/2025 and he could go to Aizawl only in the middle of July, 2025 to consult his Lawyer due to the ill health of his wife Smt. Lalchhuangi who is suffering from menopausal syndrome with Diabetes Mellitus with Diabetic Neuropathy since 2023. A copy of the Medical Certificate of Smt. Lalchhuangi is at Annexure 6.

xv) The Lawyer for the Applicant/Defendant No.4 had then informed him that since he did not take up matters in the High Court, it would be better for him to approach some other Lawyer.

xvi) The Applicant/Defendant No.4 had then approached his present

Lawyer in the first week of August, 2025.

xvii) The present lawyer for the Applicant/Defendant No.4 had taken about 22 days to study the case and prepare the appeal along with the condonation of delay application.

3. That the above sequence of events clearly indicates that there was no intentional or willful negligence on the part of the wife of the Applicant in filing the Appeal belatedly and the delay was due to inadvertence and reasons beyond his control."

**4.** From the prayer portion of the application, it is seen that the applicant has prayed for condonation of delay of 1,163 days in filing the appeal against the impugned Judgment and Order dated 25.03.2022 passed by the learned Senior Civil Judge, Serchhip District, Serchhip, in Title Suit No. 01 of 2016.

**5.** Mr. Malhotra, learned counsel appearing for the applicant, submits that the applicant had no knowledge of the pronouncement of the Judgment and Order dated 25.03.2022, as neither was any information furnished to the applicant nor was any notice of such pronouncement served upon him. He submits that initially, as per the order sheet, the learned Trial Court had concluded the final hearing of the suit on 07.12.2021 in the absence of the applicant/defendant No. 4 and had fixed 24.01.2022 for pronouncement of Judgment and Order. However, on 24.01.2022, the Court was adjourned because the learned TrialJudge was on leave, and the suit was fixed on 18.02.2022 for Judgment and Order. He submits that no summons/notices were issued to the parties informing them of the next Court date, and the order dated 24.01.2022 was also not signed by the learned Trial Court. The learned counsel submits that on the next date fixed on 18.02.2022, the Court was adjourned as the learned Trial

Judge was on official duty, and the suit was further fixed on 25.03.2022 for Judgment and Order. But this time also, no summons/notices were issued to the parties informing them of the next Court date and the order dated 18.02.2022 was also not signed by the learned Trial Court. He submits that on 25.03.2022, the learned Trial Court had pronounced the Judgment and Orderin the presence of respondent No. 1/plaintiff and the respondents Nos. 2, 3 and 4/defendants Nos. 1, 2 and 3 respectively, and in the absence of the applicant/defendant No. 4. The learned counsel submits that since the Judgment and Order dated 25.03.2022 was pronounced by the learned Trial Court in the absence of the applicant/defendant No. 4 and his counsel, without issuing any prior notice to them, the applicant/defendant No. 4 was unaware of the pronouncement of the said Judgment and Order dated 25.03.2022.

**6.** The learned counsel, therefore, submits that there has been a violation of Order XX Rule 1 of the Code of Civil Procedure, 1908, which mandates that, after a case has been heard, the Court shall pronounce judgment in open Court either at once or as soon thereafter as may be practicable, and where the judgment is to be pronounced on a future date, the Court shall fix a date for the purpose and due notice thereof shall be given to the parties or their pleaders. Learned counsel submits that, although the applicant had initially appeared before the learned Trial Court and filed his written statement, he remained absent thereafter for a considerable period owing to the COVID-19 pandemic and certain unavoidable circumstances and, as such, had no knowledge of the pronouncement of the Judgment and Order dated 25.03.2022.

**7.** The learned counsel submits that the applicant/defendant No. 4 was taken by surprise upon receiving Letter Memo No. C.18018/1/2024-LRS(S) dated

26.11.2024 issued by the Revenue Department, Serchhip District, informing him that pursuant to Order No. 277/SCJ(SCHP)/2022 dated 25.03.2022 passed by the learned Senior Civil Judge, Aizawl Judicial District, Serchhip, the suit land was to be re-demarcated on 03.12.2024 and directing him to remain present at the site. Learned counsel submits that, accordingly, the applicant visited the suit land on 03.12.2024, where he was informed by the representatives of the Revenue Department that the suit had already been decreed in favour of the respondent No. 1/plaintiff. It is submitted that until then, the applicant had no knowledge of the Judgment and Order dated 25.03.2022 and was not in possession of any copy thereof. Consequently, the applicant travelled to Aizawl on 10.12.2024 to consult his counsel regarding the disposal of the suit in favour of the respondent No. 1/plaintiff, whereupon he was advised to obtain a certified copy of the Judgment and Order dated 25.03.2022 from the learned Trial Court and thereafter, seek legal advice for taking appropriate legal recourse.He submits that the applicant had to return to his hometown on 13.12.2024. However, owing to the ensuing winter vacation, the applicant could not take immediate steps to obtain a certified copy of the Judgment and Order dated 25.03.2022. Learned counsel submits that, upon the reopening of the Court in the third week of January, 2025, the applicant requested his counsel to obtain a certified copy of the said Judgment and Order, whereupon he was informed that the necessary steps would be taken. Thereafter, when the applicant approached his counsel in the last week of February, 2025, he was informed that the certified copy had not yet been obtained. Consequently, on the instructions of the applicant, an application for a certified copy of the Judgment and Order was submitted on 10.03.2025, and the same was furnished by the learned Trial Court on 05.06.2025. Learned counsel further submits that,

after obtaining the certified copy of the Judgment and Order and other necessary documents, the applicant was informed on 11.06.2025 to come to Aizawl for consultation regarding the matter. However, the applicant was unable to travel to Aizawl at that time and could do so only in the middle of July, 2025, owing to the ill health of his wife, who was suffering from diabetes mellitus with diabetic neuropathy. Learned counsel submits that the applicant was informed by his previous counsel that, since he did not conduct matters before the High Court, it would be advisable for the applicant to engage another counsel for the purpose of filing the appeal. Accordingly, the applicant approached his present counsel in the first week of August, 2025. It is submitted that the present counsel took approximately 22 days to examine the records, study the case and prepare the appeal along with the accompanying application for condonation of delay.

**8.** In view of the aforesaid, learned counsel for the applicant submits that although the Judgment and Order dated 25.03.2022 had been passed by the learned Trial Court, the applicant had no knowledge thereof and came to know about the same only upon receiving the letter dated 26.11.2024 from the Revenue Department, Serchhip District. It is submitted that even at that stage, the applicant was unaware of the details of the Judgment and Order and could gather some information regarding the disposal of the suit only when he visited the suit land on 03.12.2024 and was informed by the officials of the Revenue Department, Serchhip District, that the title suit had already been decided.Learned counsel, therefore, submits that although the present application seeks condonation of a delay of 1,163 days in filing the connected appeal against the Judgment and Order dated 25.03.2022, the effective delay is only 178 days, as the period of limitation ought to be reckoned from the date on

which the applicant first acquired knowledge of the Judgment and Order i.e., on 03.12.2024. It is contended that the delay has been sufficiently explained in the application. Learned counsel further submits that since the issue involved substantial rights of the applicant in respect of his immovable property having regard to the explanation furnished in the application, the delay occasioned in filing the connected appeal deserves to be condoned in the interest of justice. The learned counsel for the applicant submits that when there is no inordinate delay, which can be really attributable to the applicant and the parties are litigating with regard to right over immovable properties, the delay should be condoned and substantial rights between the parties must be decided. He submits that in such kind of situations, the Court should adopt a liberal approach in matters of condonation of delay.

**9.** In support of his submissions, the learned counsel for the applicant has placed reliance on the decision of the Hon'ble Supreme Court in ***Raheem Shah &Anr. v. Govind Singh & Ors***., reported in ***(2023) 18 SCC 764,*** wherein it was held that the expression "sufficient cause" employed by the Legislature is adequately elastic to enable the Courts to apply the law in a meaningful manner which subserves the ends of justice, that being the life-purpose for the existence of the institution of Courts.

**10.** In support of his submission that Order XX Rule 1 of the Code of Civil Procedure mandates that notice of the date fixed for pronouncement of judgment is to be given to the parties and in the event, no notice is givento the parties, the limitation period would commence from the date on which the party acquires knowledge of such Judgment and Order, the learned counsel has also relied upon the decision of the Allahabad High Court in ***Mata Prasad v.***

***Dewakar Bharti & Ors.***, reported in ***1963 SCC OnLine All 215***, wherein it was held that limitation should be deemed to commence from the date of knowledge of the order by the aggrieved party. In this connection, learned counsel has further relied upon the decision in ***National Thermal Power Corporation v. Raghunath Pd. & Ors.***, reported in ***1981 SCC OnLine All 268***, wherein a Division Bench of the Allahabad High Court has held that limitation would run from the date on which the aggrieved party came to know of the order and not from the date on which the order was actually passed.

**11.** An affidavit-in-opposition has been filed by the respondent No. 1 opposing the instant application for condonation of delay. The stand taken therein is that the explanation furnished by the applicant is wholly inadequate and does not disclose any sufficient cause for preferring the connected appeal after an inordinate delay. It is contended that notices were duly issued in the concerned Title Suit and that the applicant had entered appearance before the learned Trial Court and filed his written statement as early as on 21.06.2016. It is further contended that the applicant abandoned the proceedings from 22.05.2019 onwards and remained absent until the pronouncement of the Judgment and Order dated 25.03.2022, despite being fully aware that the suit was pending before the learned Trial Court. According to the respondent No. 1, once a party has entered appearance in a suit, the Court is not required to repeatedly issue notices or summons to such party on every subsequent date of hearing. It is, therefore, contended that the conduct of the applicant clearly demonstrates negligence and lack of diligence in prosecuting his case and that despite being afforded numerous opportunities by the learned Trial Court, the applicant repeatedly chose to remain absent. It is further contended that, having participated in the proceedings and filed his written statement, the applicant

cannot subsequently plead ignorance of the Judgment and Order passed in the suit. Therefore, by filing the affidavit-in-opposition, the respondent No.1 contended that the applicant has failed to establish any sufficient cause for not preferring the appeal within the prescribed period of limitation and the reasons assigned in the application are neither adequate nor satisfactory and as such, the instant application is liable to be dismissed and consequently, the appeal should be dismissed.

**12.** Mr. K. Vanlalneihpuia, learned counsel appearing for the respondent No. 1 reiterates the contentions advanced in the affidavit-in-opposition. Learned counsel submits that Order XX Rule 1 of the CPC has no application to the facts of the present case, inasmuch as the applicant had already entered appearance and participated in the proceedings before the learned Trial Court. Referring to the order sheets annexed to the affidavit-in-opposition, learned counsel submits that the applicant had filed his written statement through his counsel on 21.06.2016 and had thereafter, appeared before the learned Trial Court on several occasions. It is submitted that on 10.08.2016, when issues were framed by the learned Trial Court, the applicant as well as his counsel were present. Learned counsel further submits that on 01.09.2016, preliminary issues were framed by the learned Trial Court in the presence of the parties, including the applicant and his counsel. However, after the framing of issues, neither the applicant nor his counsel appeared in the proceedings before the learned Trial Court. It is submitted that on several occasions, i.e., on 22.05.2019, 20.06.2019, 18.07.2019, 16.08.2019, 13.09.2019 and 01.11.2019, the applicant remained absent without assigning any reason or filing any application before the learned Trial Court. Learned counsel further submits that although the applicant was represented through his counsel on 08.11.2019 and again on 22.11.2019

onwards, the applicant remained absent on several occasions without showing any cause or reason for such absence.

**13.** Mr. Vanlalneihpuia, learned counsel for the respondent No. 1, further submits that on 13.03.2020 as well as on 24.04.2020, the applicant was represented through his counsel in the proceedings before the learned Trial Court. He submits that on 03.07.2020, the learned Trial Court recorded that the applicant had remained absent without any cause and had failed to cross-examine PW. Therefore, the Court granted a last opportunity to the applicant/defendant No. 4 to cross-examine PW and observed that, in the event of failure to do so, it would be deemed that the applicant had declined to cross-examine PW. He further submits that on several subsequent dates also, the applicant remained absent from the proceedings before the learned Trial Court. Therefore, by order dated 25.02.2021, the learned Trial Court recorded that although several opportunities had been granted to the applicant to cross-examine PW, he had failed to appear without any cause and accordingly, the opportunity to cross-examine PW was closed. It was also directed in the aforesaid order dated 25.02.2021 that the defendants should adduce evidence, if any, on the next date fixed, i.e., 12.03.2021. He submits that on 12.03.2021 also, the applicant remained absent. On 26.03.2021, since the applicant again remained absent, the learned Trial Court granted a last opportunity to the applicant to appear and adduce evidence, if any. It was further observed that in the event of his failure to do so, it would be presumed that the applicant had no evidence in support of his defence.He submits that on subsequent dates also, i.e., 23.04.2021, 25.05.2021, 02.09.2021, 24.09.2021, 20.10.2021, 12.11.2021, and 03.12.2021, the applicant remained absent from the proceedings.He submits that, ultimately, on 07.12.2021, the hearing of the suit was concluded

before the learned Trial Court and the Judgment and Order was reserved to be delivered on 24.01.2022. He submits that on 24.01.2022, the Judgment and Order could not be pronounced as the learned Trial Judge was on leave. He further submits that the order was not signed by the learned Trial Judge as he was on leave and the same not being a judicial order, was not required to be signed by the learned Trial Judge. Accordingly, the Court Master had fixed 18.02.2022 for pronouncement of Judgment and Order. He submits that on 18.02.2022 also, the judgment could not be pronounced and the Court was adjourned as the learned Trial Judge was on official duty and consequently, 25.03.2022 was fixed by the Court Master for pronouncement of the Judgment and Order. Accordingly, on 25.03.2022, the Judgment and Order was pronounced in the open Court in presence of the other parties, except the applicant. He submits that in the aforesaid order dated 25.03.2022, the learned Trial Court specifically recorded that the applicant had remained absent without any cause despite being afforded several opportunities and from the stage of the plaintiff's evidence onwards, he had failed to participate in the proceedings before the Court.

**14.** The learned counsel for the respondent No. 1 submits that the aforesaid facts, as narrated above and reflected from the order sheets, clearly demonstrate that the applicant had been negligent in pursuing the proceedings before the learned Trial Court from the very beginning after filing his written statement. He submits that such negligent conduct on the part of the applicant, despite having full knowledge of the proceedings before the learned Trial Court, cannot be condoned. Learned counsel further submits that the learned Trial Court had, in fact, acted in a liberal manner by affording the applicant numerous opportunities to appear and participate in the proceedings. Therefore, he

submits that the contention of the applicant that he was unaware of the passing of the Judgment and Order dated 25.03.2022 is wholly unsustainable and deserves to be rejected at once. Learned counsel for the respondent No. 1 further submits that even after the pronouncement of the Judgment and Order dated 25.03.2022, the applicant failed to prefer the appeal within the period prescribed under the Limitation Act and has sought to explain the delay by advancing certain untenable excuses in the instant application seeking condonation of delay. He submits that the contention of the applicant that the period of limitation should run from the date of knowledge is wholly unacceptable in the facts and circumstances of the present case, as the applicant already had knowledge of the proceedings before the learned Trial Court. Therefore, according to the learned counsel, Order XX Rule 1 of the Code of Civil Procedure is not applicable to the instant case. He further submits that the trend of blaming advocates for any delay in filing a case should not be appreciated or accepted by the Court. He submits that the meaning of the expression "sufficient cause" has been laid down by the Hon'ble Supreme Court in numerous cases and in the instant case, no sufficient cause has been shown by the applicant for the delay in filing the connected appeal.

**15.** In support of his submissions, learned counsel appearing for the respondent No. 1 has placed reliance on the following decisions:

(i) *Rajneesh Kumar &Anr. v. Ved Prakash*, [SLP (C) Nos. 935–936 of 2021], decided by the Hon'ble Supreme Court on 21.11.2024;

(ii) *Thirunagalingam v. Lingeswaran&Anr.*, reported in *2025 LiveLaw (SC) 560*;

(iii) *K.B. Lal* (*Krishna Bahadur Lal) v. Gyanendra Pratap & Ors.*, reported in *(2024) 4 SCR 616*; and

(iv) *Kanchhuv. Prakash Chand & Ors.*, [Civil Appeal No. 5319 of 2025, arising out of SLP (C) No. 20978 of 2024].

**16.** From the above narration of facts and upon perusal of the order sheets annexed to the instant application for condonation of delay as well as the affidavit-in-opposition filed by the respondent No. 1, it is clear that despite having entered appearance and filed his written statement in the proceedings before the learned Trial Court, the applicant remained absent for a considerable period without showing any cause. It is evident from the various orders on record that his absence was neither explained nor supported by any application seeking exemption from appearance. This clearly demonstrates that despite having knowledge of the pendency of the suit and despite the fact that his rights in the immovable property were involved, the applicant voluntarily chose to remain absent from the proceedings. Such conduct can be termed nothing but sheer negligence on his part.

**17.** It is also seen from the order sheets that the learned Trial Court, after affording the applicant sufficient opportunities to adduce evidence in support of his case and to cross-examine the witnesses of the plaintiff, found that he failed to avail himself of such opportunities. It is further evident that on 07.12.2021, the learned Trial Court concluded the hearing in the absence of the applicant and fixed 24.01.2022 for pronouncement of the Judgment and Order. The said date for pronouncement of Judgment and Order is clearly reflected in the order dated 07.12.2021. However, the Judgment and Order could not be pronounced on 24.01.2022 and thereafter, on 18.02.2022. Subsequently, 25.03.2022 was fixed for pronouncement of the Judgment and Order, which is specifically reflected in the order sheet dated 18.02.2022. Therefore, it cannot be said that no prior notice of the date fixed for pronouncement of judgment was available.

The order sheets themselves indicate that 25.03.2022 had been fixed for pronouncement of the Judgment and Order. The entries dated 24.01.2022 and 18.02.2022 appear to be administrative in nature, whereby fresh dates were fixed on account of the absence of the learned Trial Judge. Therefore, the contention advanced by the learned counsel for the applicant that the aforesaid orders were not signed cannot constitute a legally sustainable ground. Similarly, the contention that no notice or summons were issued informing the applicant of the date fixed for pronouncement of judgment and Order cannot, by itself, justify the plea that the applicant had no knowledge of the passing of the Judgment and Order. Diligence is the key in such proceedings and the applicant seems to be negligent in the instant case.

**18.** Coming to the decision relied upon by the learned counsel for the applicant in ***Raheem Shah (supra)*****,** the facts of the said case are clearly distinguishable from those of the present case. In the aforesaid case, the delay involved was only 52 days in filing the appeal. In the aforesaid case, rights over immovable property were under litigation and substantial rights of the parties were involved. The Hon'ble Supreme Court adopted a liberal and justice-oriented approach in condoning a delay of 52 days. However, in the present case, the delay is of 1,163 days without any justifiable and acceptable reasons. It is also seen from the materials on record that the applicant remained negligent throughout the proceedings before the learned Trial Court. Further, no sufficient explanation has been furnished for his non-participation in the proceedings before the learned Trial Court.Therefore, this Court is of the considered view that no sufficient cause, convincing to this Court, has been shown or explained by the applicant in the instant case. Consequently, this Court is of the opinion that the facts of ***Raheem Shah & Anr.*** **(supra)** are

clearly distinguishable from the facts of the present case and therefore, the said decision is of no assistance to the applicant and cannot be applied to the facts of the instant case.

**19.** Upon perusal of the decision in ***Mata Prasad*** **(supra),** relied upon by the learned counsel for the applicant, it is seen that, in the said case, after a protracted trial and numerous adjournments, the Court heard the final arguments on 13.08.1957. Thereafter, the matter was adjourned on no less than eight occasions. On 13.08.1957, the petitioner, Mata Prasad, appeared before the Court of the Sub-Divisional Officer, Balrampur, who was impleaded as opposite party No. 2 in the petition. On that date, the Court fixed 24.09.1957 for pronouncement of judgment. However, no judgment was delivered on the said date and the matter was adjourned for pronouncement of judgment on another date. In this manner, there were four successive adjournments for delivery of judgment. The petitioner therein attended the Court on all such dates, but no judgment was pronounced. The petitioner therein last attended the Court on 08.01.1958. It was alleged in the petition and the accompanying affidavit that, on that date, the petitioner made a verbal complaint regarding the repeated adjournments and the unnecessary expenses incurred by him in attending Court for hearing the order. Thereupon, the parties were assured that they would be informed as soon as the order was passed. Acting upon such assurance, the petitioner therein stopped attending Court, believing that he would be informed of the order if and when the same was passed. However, no such information was ever furnished to him. It was only on 02.06.1958 that the petitioner came to know, for the first time, that the final order had already been passed by the learned Trial Court on 17.03.1958. It was further noticed that, while passing the said order, the learned Trial Court had specifically directed that the parties be

informed thereof. Despite such direction, no information was communicated to the petitioner. In the aforesaid facts and circumstances, the learned Single Judge of the Allahabad High Court held that it was the fault of the learned Trial Court that the petitioner had not been given notice in terms of Order XX Rule 1 of the Code of Civil Procedure. The Court observed that, in view of the assurance given to the petitioner that he would be informed of the date of pronouncement of the judgment and the specific direction issued by the learned Trial Court to communicate the order to the parties, the petitioner could not be faulted for not having knowledge of the judgment. Consequently, it was held that the period of limitation would commence from the date on which the petitioner acquired knowledge of the order. However, the facts of the present case stand on an entirely different footing.

**20.** As already discussed above, the applicant initially participated in the proceedings but thereafter, neglected to pursue the matter and remained absent on numerous occasions. Further, the order sheets clearly disclose that specific dates had been fixed for pronouncement of the Judgment and Order. Despite such orders being reflected in the proceedings, the applicant failed to remain present on the date fixed for delivery of Judgment and Order. Therefore, this Court is of the view that the facts of ***Mata Prasad*** **(supra)** are clearly distinguishable from the facts of the present case. Consequently, the ratio laid down therein does not advance the case of the applicant and cannot be applied to the facts and circumstances of the present matter.

**21.** In the case of ***National Thermal Power Corporation (supra),*** relied upon by learned counsel for the applicant, it is seen that the National Thermal Power Corporation (NTPC), though a necessary party, had not been impleaded

in the proceedings before the District Judge, Mirzapur. Consequently, without any knowledge of NTPC, a Judgment and Order came to be passed whereby NTPC was directed to pay certain compensation. In the aforesaid factual background, when NTPC subsequently came to know of the Judgment and Order passed by the District Judge, Mirzapur, it approached the Allahabad High Court by filing an appeal along with an application for condonation of delay. A specific plea was taken therein that, despite being an interested and necessary party, NTPC had neither been impleaded in the proceedings nor had any knowledge of the Judgment and Order passed by the District Judge. In those circumstances, the Division Bench of the Allahabad High Court held that, since the provisions of the Code of Civil Procedure were applicable, Order XX Rule 1 thereof would also apply. It was observed that the Court is required to pronounce its judgment in open Court on a date fixed for that purpose, notice whereof should be given to the parties or their pleaders. Since no such notice had been given and NTPC was not even a party to the proceedings, it was held that the period of limitation would commence from the date on which NTPC acquired knowledge of the Judgment and Order.Therefore, the facts of the aforesaid case are clearly distinguishable from those of the present case. Accordingly, this Court is of the considered opinion that the decision in ***National Thermal Power Corporation (supra)*** does not materially assist the applicant in the facts and circumstances of the present case.

**22.** Learned counsel for the respondent No. 1 has, on the other hand, relied upon several decisions in support of his submissions. Referring to ***Rajneesh Kumar*** **(supra),** he submits that the plea of the applicant that his previous counsel took considerable time and thereafter, declined to conduct the matter before the High Court cannot constitute a valid ground for condonation of delay,

as in the aforesaid decision, the Hon'ble Supreme Court specifically cautioned against the tendency of litigants attributing delays entirely to their advocates. In the said decision, the Hon'ble Supreme Court observed that even assuming, for the sake of argument, that the concerned advocate was careless or negligent, such circumstance by itself cannot constitute a sufficient ground for condoning a long and inordinate delay, as a litigant owes a duty to remain vigilant in protecting his own rights and to keep track of judicial proceedings initiated at his instance. The Hon'ble Supreme Court further observed that a litigant cannot be permitted to shift the entire blame onto the advocate and thereafter seek relief on that basis alone. In the present case also, although the applicant has not placed the entire blame upon his previous counsel, a part of the delay has been sought to be explained on the ground that his earlier counsel allegedly declined to conduct the matter before the High Court.

**23.** Learned counsel for the respondent No. 1 has also relied upon the decision in ***Thirunagalingam* (supra),** wherein the Hon'ble Supreme Court held that, while considering an application for condonation of delay, the first and foremost duty of the Court is to examine the *bona fide* of the explanation offered by the party seeking condonation rather than to begin with the merits of the main matter.It was further held that only where the explanation for the delay and the objections raised by the opposite party stand on an equal footing may the Court take into consideration the merits of the substantive matter for the purpose of deciding the prayer for condonation of delay. The Hon'ble Supreme Court also observed that delay ought not to be condoned merely as an act of generosity.

**24.** In the case of ***K.B. Lal (supra),*** the Hon'ble Supreme Court held that the expression "sufficient cause" in Section 5 of the Limitation Act can only be given a liberal construction when no negligence, nor inaction, or nor want of *bona fide*

is attributable to the litigant.In the case of ***Kanchhu*** **(supra),** the Hon'ble Supreme Court observed that a Judge is required to examine whether the respondents had shown sufficient cause for remaining absent from the proceedings after filing their pleadings. In other words, the Court is required to consider whether the explanation offered by the respondents constituted sufficient cause and whether the learned Trial Court as well as the appellate Court fell error in refusing to accept such explanation and in declining to set aside the *ex parte* decree.

**25.** From the aforesaid decisions referred to by the learned counsel appearing for the respondent No. 1, it is clear that, while considering an application for condonation of delay, the Court has to examine whether sufficient cause has been shown and whether the applicant has acted *bona fide* in filing the application seeking condonation of the delay. In the present case, it is seen that even after acquiring knowledge of the impugned Judgment and Order dated 25.03.2022, the applicant took a further 178 days, excluding the prescribed period of 90 days, to file the present application along with the connected appeal. The explanation furnished in support of the application for condonation of delay does not appear to be convincing. This Court is, therefore, not satisfied that sufficient cause has been shown for condoning the delay.

**26.** This Court has also taken conscious note of the conduct of the applicant in the proceedings before the learned Trial Court and as mentioned above, has found the conduct of the applicant to be negligent.

**27.** As far as the law of limitation is concerned, the decision of the Hon'ble Supreme Court in ***Bharat Barrel & Drum Mfg. Co. Ltd. v. the Employees State Insurance Corporation***, reported in ***(1971) 2 SCC 860***, can be referred to, wherein the Hon'ble Supreme Court held as under:

*"The necessity for enacting periods of limitation is to ensure that actions are commenced within a particular period, firstly, to assure the availability of evidence, documentary as well as oral to enable the defendant to contest the claim against him; secondly, to give effect to the principle that law does not assist a person who is inactive and sleeps over his rights by allowing them, when challenged or disputed, to remain dormant without asserting them in a court of law. The principle which forms the basis of this rule is expressed in the maxim Vigilantibus non dormientibus, jura subveniunt (the law gives help to those who are watchful and not to those who sleep over their rights). Therefore, the object of statutes of limitation is to compel a person to exercise his right of action within a reasonable time and also to discourage and suppress stale, fake or fraudulent claims."*

**28.** Therefore, it is very clear that the object of the Limitation Act serves a meaningful purpose and is intended to bring certainty to the proceedings. In the case of ***Shivamma (Dead) by LRS v. Karnataka Housing Board & Ors.*** [Civil Appeal No. 11794 of 2025, arising out of SLP (C) No. 10704 of 2019, decided on 12.09.2025], the Hon'ble Supreme Court discussed the law of limitation in details. In the concluding part of the said judgment, particularly in paragraphs 261, 262, 263 and 264, the Hon'ble Supreme Court observed as follows:

*"261. Thus, for the reasons aforesaid, the impugned order of the High Court deserves to be set aside. Before we proceed to close this judgment, we deem it appropriate to make it abundantly clear that administrative lethargy laxity can never stand as a sufficient ground for condonation of delay, and we want to convey an emphatic message to all the High Courts that delays shall not be condoned on frivolous and superficial grounds, until a proper case of sufficient cause is made out, wherein the State-machinery is able to establish that it acted*

*with bona fides and remained vigilant all throughout. Procedure is a handmaid to justice, as is famously said. But courts, and more particularly the constitutional courts, ought not to obviate the procedure for a litigating State agency, who also equally suffer the bars of limitation from pursuing litigations due to its own lackadaisical attitude.*

*262. The High Courts ought not give a legitimizing effect to such callous attitude of State authorities or its instrumentalities, and should remain extra cautious, if the party seeking condonation of delay is a State-authority. They should not become surrogates for State laxity and lethargy. The constitutional courts ought to be cognizant of the apathy and pangs of a private litigant. Litigants cannot be placed in situations of perpetual litigations, wherein the fruits of their decrees or favourable orders are frustrated at later stages. We are at pains to reiterate this everlasting trend, and put all the High Courts to notice, not to reopen matters with inordinate delay, until sufficient cause exists, as by doing so the courts only add insult to the injury, more particularly in appeals under Section 100 of the CPC, wherein its jurisdiction is already limited to questions of law.*

*263. Limitation periods are prescribed to maintain a sweeping scope for the lis to attain for finality. More than the importance of judicial time, what worries us is the plight of a litigant with limited means, who is to contest against an enormous State, and its elaborate and never-exhausting paraphernalia. Such litigations deserve to be disposed of at the very threshold, because, say if a party litigating against the State, for whatever reason, is unable to contest the condonation of delay in appeal, unlike the present case, it reopens the lis for another round of litigation, and leaves such litigant listless yet again. As courts of conscience, it is our obligation that we assure that a litigant is not sent from pillar to post to seek justice.*

*264. No litigant should be permitted to be so lethargic and apathetic, much less be permitted by the courts to misuse the process of law."*

**29.** It is seen that the Hon'ble Supreme Court has specifically emphasised that sufficient cause must be shown for condoning delay. Delay cannot be condoned in a mechanical manner without sufficient cause being established by the applicant. Though the aforesaid case involved the State Government, the principles laid down therein are equally applicable to other litigants.

**30.** Before parting with the matter, it may be relevant to note that the learned counsel appearing for the applicant has relied upon the aspect of the substantial rights involved in the present case, inasmuch as the dispute pertains to the applicant's immovable property. However, taking into account the conduct of the applicant and the principles laid down by the Hon'ble Supreme Court in ***Esha Bhattacharjee v. Managing Committee of Raghunathpur Nafar Academy & Ors.,*** reported in ***(2013) 12 SCC 649***, wherein it has been held that lack of *bona fides* imputable to a party seeking condonation of delay is a significant and relevant circumstance. It was also observed that the concept of a liberal approach has to encapsulate the concept of reasonableness and cannot be allowed a totally unfettered free play. The conduct, behaviour and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the Courts are required to weight the scale of balance of justice in respect of both parties and the same cannot be given a complete go-by in the name of adopting a liberal approach. Lastly, it was held that where the explanation offered is concocted or the grounds urged in support of the application are fanciful, the Courts should remain vigilant and should not unnecessarily expose the opposite party to prolonged litigation.

**31.** Taking into account the principles laid down in the aforesaid decisions, as discussed above and considering the facts and circumstances of the present case, which clearly reveal an apparent negligent attitude on the part of the applicant in the instant case, this Court in its considered view,does not find any sufficient cause that has been properly explained or established by the applicant so as to justify condonation of the inordinate delay of 1,163 days. This Court has also taken proper note of the contention advanced on behalf of the applicant that no notice/summon regarding the date fixed for pronouncement of the Judgment and Order was served upon him. However, in the considered view of this Court that since the applicant was fully aware of the proceedings before the learned Trial Court and had, in fact, participated therein by filing his written statement, but thereafter, voluntarily or wilfully failed to appear before the proceeding, he cannot subsequently can take shelter under the plea of non-service of notice under Order XX Rule 1 of the Code of Civil Procedure.

**32.** In the present case, it is seen that the date fixed for pronouncement of the Judgment and Order was specifically reflected in the order sheet. Therefore, nothing prevented the applicant or his learned counsel from taking note of the said date from the records of the case. Consequently, the contentionsraised by the learned counsel for the applicant that the applicant had acquired knowledge of passing of the Judgment and Order only on 03.12.2024 and therefore, the period of limitation should commence from such date i.e., 03.12.2024, cannot be accepted. Therefore, in the instant case, the applicant cannot claim that there was only a delay of 178 days excluding 90 days in filing the connected appeal.

**33.** Accordingly, this Court, after giving anxious consideration to the

submissions advanced on behalf of both sides, is of the considered opinion that the instant application seeking condonation of the delay of 1,163 days in filing the connected appeal is devoid of merit. Consequently, the application for condonation of delay stands dismissed.

**34.** No order as to cost(s).

**JUDGE**

**Comparing Assistant**