



CGHC010142562016

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****SA No. 67 of 2016**

1 - Panku S/o Sukhlal Halba, Aged About 46 Years Occupation Agriculturist, R/o Village Bhagwantola Tahsil Chowki, District Rajnandgaon Chhattisgarh

2 - Poohlmat Bai W/o Mangeya, Aged About 47 Years R/o Village Bhagwantola Tahsil Chowki, District Rajnandgaon Chhattisgarh

3 - Madhuri D/o Mangeya, Aged About 22 Years R/o Village Bhagwantola Tahsil Chowki, District Rajnandgaon Chhattisgarh

4 - Madhu D/o Mangeya, Aged About 18 Years R/o Village Bhagwantola Tahsil Chowki, District Rajnandgaon Chhattisgarh

5 - Asha D/o Mangeya, Aged About 14 Years, Through Appellant No. 2 Mother Poohlmat Bai, R/o Village Bhagwantola Tahsil Chowki, District Rajnandgaon Chhattisgarh

6 - Lelabai D/o Sukhlal, Aged About 41 Years R/o Village Tekati Tola, Tahsil Chowki, District Rajnandgaon Chhattisgarh

... Appellant(s)**versus**

1 - Manbha Bai D/o Sukhlal, Aged About 65 Years R/o Bhagwantola, Tahsil Chowki, District Rajnandgaon, Chhattisgarh

2 - State Of Chhattisgarh Through Collector Tahsil And District Rajnandgaon Chhattisgarh

... Respondent(s)

For Appellant (s)	: Shri Aditya Bharadwaj, Advocate
For Respondent No.1	: Shri Parag Kotecha, Advocate
For Respondent No.2	: Shri Anand Gupta, Dy.G.A.

(Hon'ble Shri Justice Sachin Singh Rajput)

Judgment on Board

02/09/2026

This appeal under Section 100 of the Civil Procedure Code, 1908 (for short 'CPC') has been filed being aggrieved by the judgment dated 08/07/2015 passed by the Additional District Judge (FTC), Rajnandgaon (CG) (for short 'ADJ') in Misc. Case No.15/2010. By the impugned order, application under Order 41 Rule 3 (a) CPC filed by the appellant/plaintiff for condonation of delay in filing appeal under Section 96 of CPC was rejected. Consequently, the First Appeal filed by the appellants/defendants before the learned ADJ was also dismissed. The First Appeal along with the said application was filed assailing judgment and decree dated 19/11/2009 passed in Civil Suit No.7A/2006 by the Civil Judge, Class-I, Ambagarh Chowki, District-Rajnandgaon, Chhattisgarh.

2. Facts of this case in brief are that the respondent No.1/plaintiff filed a civil suit against the appellants/defendants for declaration of title, partition of 1/5th share and possession of the suit property comprised in khasra No.67, area 2.22 acres. khasra No.180 area 3.27 acres, khasra No.297, area 6.86 acres, total khasra no.3, total area 12.35 acres. The said suit was dismissed by the learned Civil Judge, against which, the appellants/defendants preferred first appeal under Section 96 of CPC. The appeal was barred by limitation. Thus, an application under Order 41 Rule 3 (a) CPC was filed along with the memo of appeal. The said application was rejected by the impugned order resulting into dismissal of the First Appeal. On 12/05/2016, this Court admitted this appeal on the following substantial question of law -

“Whether the first appellate Court had exercised its jurisdiction fairly and judiciously while dismissing the application seeking condonation of delay ?

3. Learned counsel for the appellant submits that the learned First Appellate Court committed an error in rejecting the said application holding that the appellants/defendants were not able to show sufficient cause for condonation of delay. He submits that in the application filed for condonation of delay, the appellants/defendants have categorically stated that they were not aware about

judgment passed by the learned Civil Judge as the same was not informed to them by the earlier counsel. As soon as they came to know about the passing of judgment and decree by the Civil Judge, they promptly contacted the earlier counsel to obtain necessary documents including certified copy of the judgment and decree. Thereafter, First Appeal was preferred before the learned 1st Appellate Court. He submits that the delay was not intentional but bonafide. He further submits that the Courts should have liberal approach in deciding the application for condonation of delay particularly when sufficient cause has been shown. Thus, the substantial question of law may be answered in favour of the appellants/defendants and the impugned order may be set aside and the First Appeal may be remanded back to the 1st appellate Court to decide it on its own merits.

4. Shri Parag Kotecha, learned counsel for respondent No.1/plaintiff submits that the parties should be vigilant in prosecuting their case. The appellants/defendants were negligent in prosecuting their case and they have not been able to show sufficient cause for condonation of delay. He submits that all the aspects of the matter have been duly considered by the learned 1st Appellate Court in the impugned order which does not warrant any interference by this Court.

5. Learned State counsel submits that the dispute is essentially between the private parties and the State is a formal party.

6. Heard learned counsel for the parties and perused the record.

7. There is no dispute to the fact that the judgment and decree was passed against the appellants/defendants by the learned Civil Judge on 19/11/2009. According to that judgment and decree, the suit property was partitioned and respondent No.1/plaintiff was declared title holder of 1/5th share of the same. From the records, it appears that the First Appeal was preferred by the appellants/defendants which was registered as Civil Misc. Case No.15/2010 on 15/08/2010 along with application for condonation of delay under Order 41 Rule 3 of CPC. Perusal of the application for condonation of delay would indicate that the appellants/defendants were not aware of passing of the impugned judgment as they were not informed by their counsel. When they received summons from the Court of Tahsildar, Ambagarh Chowki on 29/06/2010, they appeared in the said Court. Thereafter, the matter was adjourned on couple of occasions and on 02/08/2010, the Tahsildar informed the appellants/defendants that their civil case was dismissed and an application for partition had been filed by

respondent No.1/plaintiff. Thereafter, they took back the file from the earlier counsel and obtained certified copy of the order on 09/08/2010. Thus, the appeal was filed without any delay on 25/08/2010. The learned 1st Appellate Court found that the appellant could not show sufficient reason for delay though the evidence of the appellant-Panku was examined and that of another witness namely Bhagwat Prasad Tiwari.

8. In the case of **N. Balakrishnan v. M. Krishnamurthy, (1998) 7 SCC 123**, Hon'ble Supreme Court held as under -

“11. Rules of limitation are not meant to destroy the right of parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury. The law of limitation fixes a lifespan for such legal remedy for the redress of the legal injury so suffered. Time is precious and wasted time would never revisit. During the efflux of time newer causes would sprout up necessitating newer persons to seek legal remedy by approaching the Courts. So a lifespan must be fixed for each remedy. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. The law of limitation is thus founded on public policy. It is enshrined in the maxim interest reipublicae up sit finis litium (it is for the general welfare that a period be put to litigation). Rules of limitation are not meant to destroy the rights of the parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time.

12. A Court knows that refusal to condone delay would result in foreclosing a suitor from putting forth his cause. There is no presumption that delay in approaching the Court is always deliberate. This Court has held that the words “sufficient cause” under Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice vide Shakuntala Devi Jain v. Kuntal Kumari, AIR 1969 SC 575 and State of West Bengal v. Administrator, Howrah Municipality, AIR 1972 SC 749”.

9. Further in the case of **Esha Bhattacharjee v. Managing Committee of Raghunathpur Nafar Academy and ors., (2013) 12 SCC 649** (supra), parameters have been laid down for considering the application for condonation of delay and it has been observed as under -

“21. From the aforesaid authorities the principles that can broadly be culled out are:

i) There should be a liberal, pragmatic, justice-oriented, non-pedantic approach while dealing with an application for condonation of delay, for the Courts are not supposed to legalise injustice but are obliged to remove injustice.

ii) The terms “sufficient cause” should be understood in their proper spirit, philosophy and purpose regard being had to the fact that these terms are basically elastic and are to be applied in proper perspective to the obtaining fact-situation.

iii) Substantial justice being paramount and pivotal the technical considerations should not be given undue and uncalled for emphasis.

iv) No presumption can be attached to deliberate causation of delay but, gross negligence on the part of the counsel or litigant is to be taken note of.

v) Lack of bona fides imputable to a party seeking condonation of delay is a significant and relevant fact.

vi) It is to be kept in mind that adherence to strict proof should not affect public justice and cause public mischief because the Courts are required to be vigilant so that in the ultimate eventuate there is no real failure of justice.

vii) The concept of liberal approach has to encapsulate the conception of reasonableness and it cannot be allowed a totally unfettered free play.

viii) There is a distinction between inordinate delay and a delay of short duration or few days, for to the former doctrine of prejudice is attracted whereas to the latter it may not be attracted. That apart, the first one warrants strict approach whereas the second calls for a liberal delineation.

ix) The conduct, behavior 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 weigh the scale of balance of justice in

respect of both parties and the said principle cannot be given a total go by in the name of liberal approach.

x) If the explanation offered is concocted or the grounds urged in the application are fanciful, the Courts should be vigilant not to expose the other side unnecessarily to face such a litigation.

xi) It is to be borne in mind that no one gets away with fraud, misrepresentation or interpolation by taking recourse to the technicalities of law of limitation.

xii) The entire gamut of facts are to be carefully scrutinized and the approach should be based on the paradigm of judicial discretion which is founded on objective reasoning and not on individual perception.

xiii) The State or a public body or an entity representing a collective cause should be given some acceptable latitude.”

10. Looking to the reasons assigned, in the opinion of this Court, the appellants were able to show sufficient cause for delay in filing the appeal before the 1st appellate Court. Thus, in the opinion of this Court, learned 1st appellate Court has committed error in rejecting the application for condonation of delay. Therefore, the substantial question of law is answered in favour of the appellants/defendants. Accordingly, the impugned judgment and decree is set aside. The matter is remanded back to the learned 1st appellate Court to be decided on merits. The parties are directed to appear before the 1st appellate Court on 12/10/2026. Records be sent back forthwith. In case, the parties does not appear, the 1st appellate Court may issue notice to the respective parties.

Sd/-

(Sachin Singh Rajput)
JUDGE

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DEEPTI HARIKUMAR Date: 2026.09.08 11:36:17 +0530	Digitally signed by DEEPTI HARIKUMAR
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