

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR

CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO. 22 OF 2026

Shri Shivaji Shankar Jadhav	]	
Age – 73 Years, Occupation – Argiculture,	]	
R/o. Gulumb, Tal. Wai, Dist. Satara.	]	Applicant
Versus.		
Gram Panchayat Gulumb	]	
Through Sarpanch Swati Shivaji Mane	]	
Age – 28 Years, Occupation – Housework,	]	
R/o. Gulumb, Tal. Wai, Dist. Satara.	]	Respondent

Mr. Lalit S. Khamkar for Applicant.
None for the Respondent

Coram : ASHWIN D. BHOBE, J.

Date : 24th September 2026.

ORAL JUDGMENT :

1. Heard Mr. Lalit Khamkar, learned Advocate for the Applicant.
2. Applicant, by this Revision Application filed under Section 115 of the Code of Civil Procedure (“C.P.C.”), has challenged the Order dated 25th September 2025 passed by the District Judge-1 at Wai (“District Court”) in Civil Miscellaneous Application No. 05 of 2025 (“impugned Order”).

3. On 10th September 2026, the following order was passed:

- "1. Heard Mr. Lalit S. Khamkar.*
- 2. By the present Civil Revision Application, the Applicant has assailed the order dated 25th September, 2025, passed by the learned District Judge-1, Wai, in Civil Misc. Application No.05 of 2025, whereby a delay of 309 days in filing a Regular Civil Appeal by the Respondent has been condoned.*
- 3. Notice was issued to the Respondent on 16th February 2026.*
- 4. The Office Note dated 5th September, 2026 reads as follows:*
 - "1) CRA All Office Objections removed.*
 - 2) Fresh Notice issued to sole Respondent, received duly served as per Bailiff report dated 06/05/2026.*
 - 3) As per Court's order dated 16/02/2026 Adv. for Applicant has filed affidavit on behalf of Applicant is kept at Flag "A"."*
- 5. When this Application was called out, the name of the Respondent Gram Panchayat Gulumb through Sarpanch Swati Shivaji Mane was called out by the Court Sheristedar. Neither the Respondent nor any Advocate for the Respondent were present before this Court, either physically or through V.C. mode.*
- 6. In view of the absence of the Respondent/Advocate for the Respondent, this Civil Revision Application is Admitted and is ordered to be listed for final hearing on 24th September, 2026, "First on Board".*
- 7. Issue notice to the Respondent for final disposal, returnable on 24th September, 2026.*
- 8. Mr. Lalit S. Khamkar, learned Advocate for the Applicant, requests*

for Hamdast. At his request, Hamdast is granted.

9. *In addition to the regular mode of service, the Applicant shall serve the Respondent by private service and file the service report in respect thereof in the Registry of this Court on or before 21st September, 2026.*
10. *Mr. Lalit S. Khamkar, learned Advocate for the Applicant, submits that a spare copy of the paper-book will be furnished in the Registry of this Court on or before 15th September, 2026, so as to enable issuance of notice to the Respondent.*
11. *List this matter on 24th September, 2026 under the caption "First on Board for Final Disposal".*

4. Pursuant to the order dated 10th September 2026, the Applicant has filed an Affidavit of Service dated 19th September 2026. Paragraphs 2 and 3 of the said Affidavit read as follows:

- "2. I state that pursuant to the Order passed by this Hon'ble Court dated 10th September 2026, I have duly served the notice of the present matter upon the Respondent, Gram Panchayat Gulumb through Sarpanch Swati Shivaji Mane via Speed Post.*
- 3. I have filed the official Postal Receipt and the original India Post Delivery Acknowledgement Report confirming successful service."*

5. By letter dated 19th September 2026, the Joint Civil Judge, Junior Division, Wai, forwarded the Bailiff's Report, which states that the notice issued by this Court was duly served on the Respondent.

6. The Sheristedar called out the names of the Respondent, including the name of the Sarpanch, as referred to in the cause title of this Application. None appeared, either in person before the Court or through V.C. mode.

7. As this Application is listed today under the caption “*For Final Disposal*”, and by notice dated 10th September 2026, the parties were notified that this Application would be finally heard on 24th September 2026, Mr. Lalit Khamkar, learned Advocate for the Applicant, insists on taking up the Application for final disposal, as the service on the Respondent is complete.

8. The material facts relevant to the adjudication of this Revision Application are that the Applicants (Plaintiffs) instituted Regular Civil Suit No. 113 of 2022 before the Court of the Civil Judge, Junior Division, Wai (“Trial Court”), against the Respondent (Defendant). The Trial Court decreed Regular Civil Suit No. 113 of 2022 by Judgment and Decree dated 9th February 2024.

9. Mr. Lalit Khamkar, learned Advocate for the Applicant, states that although a Vakalatnama was filed by an Advocate for the Respondent in Regular Civil Suit No. 113 of 2022, neither a Written Statement was filed nor did the said Advocate appear at the hearing. He submits that the Judgment and Decree dated 9th February 2024 makes no reference to the Advocate's name or to any representative of the Respondent. To clarify, he submits that

Regular Civil Suit No. 113 of 2022 proceeded ex parte.

10. On 16th January 2025, the Respondent filed Civil Miscellaneous Application No. 05 of 2025 before the District Court seeking condonation of a delay of 309 days in filing an Appeal against the decree passed in Regular Civil Suit No. 113 of 2022. Upon notice, the Applicants contested Civil Miscellaneous Application No. 05 of 2025.

11. By the impugned Order, the District Court condoned the delay of 309 days.

12. Mr. Lalit Khamkar, learned Advocate for the Applicant, submits that Civil Miscellaneous Application No. 05 of 2025 does not disclose any reason that could be termed sufficient cause. He submits that the so-called reason offered by the Respondent in the application seeking condonation is that the Respondent was unaware of the proceedings or of the disposal of Regular Civil Suit No. 113 of 2022. He submits that the Respondent has attempted to blame the Secretary of the Panchayat for non-communication of the decree to the Respondent. He submits that the District Court merely observed that the grievance raised by the Respondent in the Appeal needs to be considered on merits after condoning the delay and that the Applicant's grievance can be compensated by imposing costs of Rs.1,000/-.

13. Mr. Lalit Khamkar, learned Advocate for the Applicant, further submits that the District Court has made no finding or observation on the most relevant aspect of the matter, namely, whether the Respondent has made out sufficient cause for condonation of delay under Section 5 of the Limitation Act, 1963. He therefore submits that the impugned order passed by the District Court is illegal and perverse. He further submits that the impugned order has caused grave and irreparable prejudice to the Applicants, who have been diligently pursuing the litigation. He submits that the impugned Order rewards the Respondents' inaction, despite their gross negligence in pursuing the case.

14. Despite service of notice on the Respondent, as referred to hereinabove, the Respondent has remained absent. The Respondent's absence in this Application indicates a lack of interest in opposing or contesting this Revision Application.

15. Perused the records with the assistance of Mr. Lalit Khamkar, learned Advocate for the Applicant.

16. In matters relating to condonation of delay, a liberal approach is adopted, provided the explanation for the delay falls within the expression "sufficient cause". However, such a liberal approach should not prejudice or defeat valuable rights accrued in favour of the opponent due to the inaction

or negligence of the party seeking condonation of delay. I am conscious that the exercise of positive discretion in condoning delay normally ought not to be disturbed unless the exercise of such discretion is on wholly untenable grounds or arbitrary or perverse.

17. The points for consideration in this Revision Application are whether the Respondent has shown “sufficient cause” to condone the delay of 309 days in filing a Regular Appeal under Section 96 of the C.P.C., and whether the impugned Order is perverse.

18. A perusal of the impugned Order does not indicate that the District Court considered whether the cause shown by the Respondent in Civil Miscellaneous Application No. 05 of 2025 falls within the expression “*sufficient cause*” under Section 5 of the Limitation Act, 1963, to show indulgence to the Respondent. Apparently, the District Court was impressed by the grounds raised in the accompanying “*proposed*” Appeal, filed along with the Civil Miscellaneous Application No. 05 of 2025. Para 10 of the impugned order reads as follows:

“10] In the light of above mentioned legal principles, in case in hand, opportunity needs to be granted to the aggrieved person i.e. applicant-Grampanchayat, Gulumb for putting its grievance before appellate Court. The reason is being that applicant has raised various grounds in its appeal memo for being challenged

impugned judgment and decree. Appeal can be decided on merit only when, delay condonation application is allowed.”

19. To overcome the limitation period, the Respondent makes a vague and bald statement that the Secretary post is transferable, that the Secretary did not follow up on the case and that the Secretary did not inform the Respondent of the passing of the Judgment and Decree in Regular Civil Suit No. 113 of 2022. The Civil Miscellaneous Application No. 05 of 2025 gives no details of the Secretary holding the post during the subject period, nor does it produce any documents to support the claim of the Secretary's transfers, nor any action initiated by the Respondent against the Secretary for dereliction of duty, if any. Pertinently, the Civil Miscellaneous Application No. 05 of 2025 contains no explanation for the Respondent's abandonment of Regular Civil Suit No. 113 of 2022, the absence of contest and non-appearance despite service of summons.

20. The Respondent's lackadaisical approach to Court proceedings is evident from their failure to contest the Regular Civil Suit No. 113 of 2022 before the Trial Court. Further, their absence before this Court despite being served with notice(s) supports the submission of Mr. Lalit Khamkar, learned Advocate for the Applicant, that the Respondent is grossly negligent and tends to take Court proceedings for granted.

21. The reasons advanced by the Respondent in Civil Miscellaneous Application No. 05 of 2025 are an afterthought and fanciful (*see Esha Bhattacharjee Vs. Managing Committee of Raghunathpur Nafar Academy & Ors.*¹). The facts indicate that the Respondent was negligent in pursuing its remedies. The reasons offered by the Respondent for the delay are not convincing. These reasons fall short of showing any cause, let alone “sufficient cause”, for condoning the delay. The legal maxim “*dura lex sed lex*”, which means “*the law is hard, but it is the law*”, stands attracted to the facts of this case.

22. The impugned Order fails to recognise that the expression ‘*sufficient cause*’ in section 5 of the Limitation Act, 1963 cannot be construed liberally when negligence, inaction or lack of bona fide is apparent. The District Court overlooked the fact that the accompanying Appeal to the Civil Miscellaneous Application No. 05 of 2025 was a “*proposed appeal*” and could not be considered. The District Court thus erred in considering the merits of the grounds challenging the Judgment and Decree dated 09.02.2024 passed in Regular Civil Suit No. 113 of 2022, as raised in the “*proposed appeal*” and in exercising its discretion to condone the delay. On both counts, the impugned Order is perverse, unsustainable and warrants interference in the revisional jurisdiction of this Court.

1 (2013) 12 SCC 649

23. A useful reference to the enunciation of the Hon'ble Supreme Court on the law of limitation in paragraph Nos. 28 to 28.8 of the case *Pathapati Subba Reddy (died) vs. The Special Deputy Collector*² can be made:

- “28. On a harmonious consideration of the provisions of the law, as aforesaid, and the law laid down by this Court, it is evident that:
- 28.1. Law of limitation is based upon public policy that there should be an end to litigation by forfeiting the right to remedy rather than the right itself;
- 28.2. A right or the remedy that has not been exercised or availed of for a long time must come to an end or cease to exist after a fixed period of time;
- 28.3. The provisions of the Limitation Act have to be construed differently, such as Section 3 has to be construed in a strict sense whereas Section 5 has to be construed liberally;
- 28.4. In order to advance substantial justice, though liberal approach, justice-oriented approach or cause of substantial justice may be kept in mind but the same cannot be used to defeat the substantial law of limitation contained in Section 3 of the Limitation Act;
- 28.5. Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power is discretionary in nature and may not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence;
- 28.6. Merely some persons obtained relief in similar matter, it does not mean that others are also entitled to the same benefit if the court

2 (2024) 12 SCC 336

is not satisfied with the cause shown for the delay in filing the appeal;

28.7. *Merits of the case are not required to be considered in condoning the delay; and*

28.8. *Delay condonation application has to be decided on the parameters laid down for condoning the delay and condoning the delay for the reason that the conditions have been imposed, tantamounts to disregarding the statutory provision.”*

24. For the aforesaid reasons, this Application is allowed in terms of prayer clauses (A) and (B). The impugned order dated 25th September 2025 passed in Civil Miscellaneous Application No. 05 of 2025 is quashed and set aside. Consequently Civil Miscellaneous Application No. 05 of 2025 filed by the Respondent stands dismissed.

25. No order as to costs.

26. Civil Revision Application No. 22 of 2026 is disposed of.

[ASHWIN D. BHOBE, J.]

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