

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Arb. Appeal No.411 of 2026

Decided on: 15.09.2026

National Highway Authority of India

.... Appellant.

Versus

Lal Singh (deceased) through LRs & others

...Respondents

Coram

Hon'ble Mr. Justice Romesh Verma, Judge

Whether approved for reporting?

For the appellant:

Ms. Shreya Chauhan, Advocate.

For the respondents:

Mr. Jia Lal, Advocate, vice counsel, for respondents No.1(a) to 1(c), 2 and 3.

Mr. Diwakar Dev Sharma, Additional Advocate General, for respondent No.4.

Romesh Verma, Judge (Oral)

The instant appeal arises out of the order as passed by the learned District Judge, Mandi, dated 15.01.2025, whereby an application filed for condonation of delay in filing the application under Order 9 Rule 9 of the Code of Civil Procedure came to be dismissed.

2. The facts, as emerge in the present case, are that the land of the private respondents was acquired by the appellant for the widening and construction of National Highway-21. The competent authority, after perusing the record and hearing the respective parties,

passed the award whereby the respondents were held entitled to get the amount of compensation at the rate of Rs 25,00,000/- per bigha.

3. Feeling dissatisfied, the claimants filed an application under Section 3G(5) of the National Highways Act, (for sort, "the Act") before the learned Arbitrator and the same was allowed by passing an award enhancing the compensation to the tune of Rs 27,55,000/- per bigha.

4. Against the award so passed by the learned Arbitrator, both the claimants and the NHAI preferred petitions under Section 34 of the Arbitration and Conciliation Act, 1996, before the learned District Judge, Mandi.

5. It has been fairly conceded by the learned counsel for the parties that during the pendency of the application under Section 34 preferred by the NHAI, respondent No.1, Lal Singh, expired, and vide order dated 14.03.2022, the learned District Judge dismissed the application as having been abated.

6. After the elapse of more than two years, an application under Section 5 of the Limitation Act, 1963, was filed by the appellant for condonation of delay in filing the restoration application to restore the proceedings under Section 34 of the Arbitration and Conciliation Act, which stood dismissed on 14.03.2022.

7. The learned District Judge, vide impugned order dated 15.01.2025, dismissed the application under Section 5 of the Limitation

Act and feeling dissatisfied with the said order, the appellant-NHAI has approached this Court.

8. It is contended by Ms. Shreya Chauhan, learned counsel appearing for the appellant, that the impugned order as passed by the learned District Judge is erroneous and liable to be quashed and set aside. She submits that the learned District Judge has failed to take into consideration the statutory provisions of law and has wrongly dismissed the application on an erroneous ground. She further submits that in the application filed under Section 5 of the Limitation Act, there were plausible reasons given for setting aside the abatement as passed by the learned District Judge on 14.03.2022.

9. On the other hand, Mr. Jia Lal, learned vice counsel appearing for the private respondents, has defended the impugned order and submitted that the averments made in the application are completely silent and devoid of any plausible explanation. He submits that the learned District Judge has rightly dismissed the application, which came to be filed after elapse of more than two years.

10. I have heard the learned counsel for the parties and perused the record carefully.

11. In the present case, the CALA, being the competent authority, passed the award after taking into consideration the material placed on record by the respective parties and assessed the compensation at Rs.25,00,000/- per bigha. Thereafter, the

respondents-claimants preferred an application under Section 3G(5) of the Act before the learned Arbitrator, who, vide its award dated 22.03.2019, enhanced the compensation to the tune of Rs.27,55,000/-.

12. During the pendency of the Section 34 application before the learned District Judge, respondent No.1, Lal Singh, expired. The record reveals that the learned District Judge accordingly dismissed the petition as having been abated on 14.03.2022. The appellant subsequently filed the application for restoration and for setting aside the abatement, along with an application under Section 5 of the Limitation Act, which came to be instituted on 08.07.2024.

13. A perusal of the application reveals that it has been stated that the learned counsel for the applicant took steps and apprised the NHAI to trace out the legal heirs of respondent No.1 so as to implead them as party-respondents. As per the applicant, since the records pertaining to the acquisition of the land were in the possession of the Special Land Acquisition Unit (SLAU), it took a considerable time to procure the details of the legal heirs of deceased respondent No.1. It has been stated that as soon as the applicant received the requisite information regarding the legal heirs, the application for restoration of the petition under Section 34 of the Arbitration and Conciliation Act was immediately drafted and preferred. The applicant has further pleaded that being a government organisation, it is required to follow a specified

procedure before approving and signing any legal documents, hence the delay in filing the application had occurred.

14. This Court is of the considered opinion that no sufficient cause, much less any plausible explanation, has been assigned by the applicant/appellant in the application filed under Section 5 of the Limitation Act. The averments made in the application are vague and cryptic and the reasons for not filing the application for about more than two years have not been given. It has not been explained that from 14.03.2022 till 23.05.2024 when the application was filed what steps were taken during this period by the appellant. Neither it has been disclosed as to when the applicant obtained the death certificate and legal heir certificate, nor any explanation has been given as to what prevented it for about two years to obtain the said relevant documents for filing the instant application. In a routine and general manner, the application came to be filed primarily on the ground that since the applicant is a government organisation, therefore the delay that occurred should be condoned.

15. Generally, the Courts have adopted a very liberal approach in construing the phrase 'sufficient cause' used in Section 5 of the Limitation Act, in order to condone delay to enable the Courts to do substantial justice and to apply the law in a meaningful manner that sub-serves the ends of justice. Notwithstanding the above, no matter how liberal an approach is adopted in condoning delay, the existence

of sufficient cause for not filing the appeal in time is a condition precedent for exercising the discretionary power to condone the delay. The phrases 'liberal approach', 'justice-oriented approach', and 'cause for the advancement of substantial justice' cannot be employed to defeat the law of limitation so as to allow stale matters or, as a matter of fact, dead matters to be revived and reopened by taking aid of Section 5 of the Limitation Act. It must always be borne in mind, while construing sufficient cause in deciding applications under Section 5 of the Limitation Act, that on the expiry of the period of limitation prescribed for filing an appeal, a substantive right accrues in favour of the decree-holder, and this right ought not to be lightly disturbed.

16. The Hon'ble Apex Court has repeatedly held that even after sufficient cause has been shown by a party for not filing an appeal within time, the said party is not entitled to the condonation of delay as a matter of right, as excusing the delay is within the discretionary jurisdiction vested in the court. The Court, despite the establishment of sufficient cause, may for various reasons refuse to condone the delay, depending upon the bona fides of the party. The liberal approach in considering the sufficiency of cause for delay should not be allowed to override the substantive law of limitation. The concept of a 'liberal approach' cannot be employed to jettison the substantial law of limitation. It is a well-settled principle of law that though limitation may harshly affect a particular party, 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. Where a case has been presented in the court beyond limitation, the applicant has to explain to the court what the sufficient cause was which means an adequate and enough reason that prevented him from approaching the court within the period of limitation. No court would be justified in condoning such an inordinate delay by imposing any condition whatsoever.

17. The record indicates that the claimants had also instituted an application under Section 34 of the Arbitration and Conciliation Act, bearing Arbitration Petition No. 6 of 2019. In the said application, after the death of claimant Lal Singh, his legal representatives, namely Bhim Singh, Hima Devi, and Champa Devi, were brought on record. Vide its judgment dated 17.12.2021, the learned District Judge dismissed the said application on merits.

18. In the present case, the application which was instituted by the National Highways Authority of India against the award passed by the learned Arbitrator dated 22.03.2019, bearing Arbitration Petition No. 89 of 2019, despite it being reported on 14.09.2021 that respondent No.1 Lal Singh had expired, the matter was repeatedly adjourned thereafter for bringing on record the legal representatives. However, no application was filed for bringing on record the legal representatives of the said deceased respondent.

19. Once both parties had instituted applications under Section 34 of the Arbitration and Conciliation Act against the award dated 22.03.2019 and in the application filed by the claimants bearing Arbitration Petition No.6 of 2019 the legal representatives were ordered to be brought on record, wherein the NHAI was duly represented by learned counsel, it was incumbent upon the present appellant to explain why similar steps were not taken for more than two years.

20. As observed aforesaid, there is no plausible explanation given in the application and it remains completely silent on the grounds of delay. Once there is a huge and unexplained delay of two years, more so in view of the fact that a valuable right has accrued in favour of the respondent, in the considered opinion of this Court, no relief can be granted to the appellant under the attending facts and circumstances of the case.

21. The learned District Judge, vide the impugned order, rightly came to the conclusion that since the application was preferred after elapse of more than two years without assigning any cogent or justifiable reason, therefore, no ground was made out to condone the delay.

22. The Hon'ble Apex Court in case titled as ***Pathapati Subba Reddy (died) by LRs and others vs. The Special Deputy Collector (LA), Special Leave Petition (Civil) No.31248 of 2018***, has

laid down the parameters for condonation of delay in the following manner:

“12. In view of the above provision, the appeal which is preferred after the expiry of the limitation is liable to be dismissed. The use of the word ‘shall’ in the aforesaid provision connotes that the dismissal is mandatory subject to the exceptions. [Section 3](#) of the Act is peremptory and had to be given effect to even though no objection regarding limitation is taken by the other side or referred to in the pleadings. In other words, it casts an obligation upon the court to dismiss an appeal which is presented beyond limitation. This is the general law of limitation. The exceptions are carved out under [Sections 4](#) to [24 \(inclusive\)](#) of the Limitation Act but we are concerned only with the exception contained in [Section 5](#) which empowers the courts to admit an appeal even if it is preferred after the prescribed period provided the proposed appellant gives ‘sufficient cause’ for not preferring the appeal within the period prescribed. In other words, the courts are conferred with discretionary powers to admit an appeal even after the expiry of the prescribed period provided the proposed appellant is able to establish ‘sufficient cause’ for not filing it within time. The said power to condone the delay or to admit the appeal preferred after the expiry of time is discretionary in nature and may not be exercised even if sufficient cause is shown based upon host of other factors such as negligence, failure to exercise due diligence etc.

13. It is very elementary and well understood that courts should not adopt an injustice-oriented approach in dealing with the applications for condonation of the delay in filing appeals and rather follow a pragmatic line to advance substantial justice.

14 to 20 xx xx xx xx

21. In [Lanka Venkateswarlu vs. State of Andhra Pradesh & Ors.6](#), where the High Court, despite unsatisfactory explanation for the delay of 3703 days, had allowed the applications for condonation of delay, this Court held that the High Court failed to exercise its discretion in a reasonable and objective manner. High Court should have exercised the discretion in a systematic and an informed manner. The liberal approach in considering sufficiency of cause for delay should not be allowed to override substantial law of limitation. The Court observed that the concepts such as 'liberal approach', 'justice-oriented approach' and 'substantial justice' cannot be employed to jettison the substantial law of limitation.

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23. In [Basawaraj and Anr. vs. Special Land Acquisition Officer 8](#), this Court held that the discretion to condone the delay has to be exercised judiciously based upon the facts and circumstances of each case. The expression 'sufficient cause' as occurring in [Section 5](#) of the Limitation Act cannot be liberally interpreted if negligence, inaction or lack of bona fide is writ large. It was also observed that even though limitation may harshly affect rights of the parties but it has to be applied with all its rigour as prescribed under the statute as the courts have no choice but to apply the law as it stands and they have no power to condone the delay on equitable grounds.

24. It would be beneficial to quote paragraph 12 of the aforesaid decision which clinches the issue of the manner in which equilibrium has to be maintained between

adopting liberal approach and in implementing the statute as it stands, Paragraph 12 reads as under:

"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."

23. It is contended by the learned counsel for the applicant that, being an instrumentality of the State, a liberal approach should be adopted while condoning the delay in filing the application under Section 5 of the Limitation Act. She submits that since the file went through different channels and because it is an agency of the State, the Court should adopt a liberal approach while considering the said application

24. To the said submission of learned counsel for the applicant, the Hon'ble Apex Court in ***Shivamma (dead) by LRs vs. Karnataka Housing Board & others***, Civil Appeal No. 11794 of

2025, decided on 12.09.2025, has held that irrespective of whether the litigant is a Government entity or a private person, the provisions of law applicable are the same and as such the same consideration that is shown by the courts to a private party, when claiming the protection of Section 5 of the Limitation Act, should also be adopted towards the State. The expression “sufficient cause” cannot be construed too liberally merely because the party is the Government, nor are the courts bound to accept readily whatever has been stated on behalf of the State.

25. The Hon’ble Apex Court has deprecated the condonation of delay in filing the appeal therein that was occasioned not by any unavoidable circumstance, but by the sheer inefficiency and ineptitude of the Government pleaders concerned, merely because the party seeking condonation happened to be the State. In doing so, the Hon’ble Apex Court had observed that the concepts such as liberal approach, justice-oriented approach, substantial justice cannot be employed to thwart the substantial law of limitation, particularly in cases where the court concludes that there is no justification for the delay. The distinction between the State or any instrumentality, vis-a-vis the private individual for the purpose of Section 5 of The Limitation Act should be understood in its proper context and true spirit.

26. The Hon’ble Apex Court further observed that the State or any of its instrumentality cannot be put on the same footing as a

private party for the purpose of condonation of delay under Section 5 of the Limitation Act. The Hon'ble Apex Court while passing the judgment has given a clear message to the State and all its instrumentalities that a leisurely and lethargic approach cannot continue for all times to come. The State and all public authorities to constitute legal cells to examine the cases whether any legal principles are involved in the decisions by the courts. If not, then endeavour should be made towards arriving at a settlement, instead rather than re-agitating the related causes before the courts. Differential treatment cannot continue for all times to come.

27. The Hon'ble Apex Court after setting aside the judgment passed by the High Court, whereby the delay was condoned, dismissed the application for condonation of delay by imposing cost of Rs.25,000/- on the respondent in the said case. It has been held by the Hon'ble Apex Court that limitation periods are prescribed to maintain a sweeping scope for the *lis* to attain for finality. More than the importance of the judicial time, what worries is the plight of the 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.

28. The learned District Judge has rightly dismissed the application, as the record shows that both the parties, namely, the NHAI and the respondents filed their respective applications under Section 34 of the Arbitration and Conciliation Act against the award passed by the learned Arbitrator.

29. In the application instituted by the claimants/respondents, the learned counsel representing the present appellant appeared on each and every date of hearing. Meaning thereby, the NHAI/appellant was well aware of the death of the respondent in the proceedings.

30. The stand sought to be projected in the present proceedings is mutually destructive, as the learned counsel for the NHAI had been appearing in the proceedings initiated by the respondents under Section 34 of the Arbitration and Conciliation Act. The grounds so taken appear to be an afterthought. Therefore, it neither inspires confidence nor satisfies the requirement for the condonation of delay.

31. The learned District Judge has rightly appreciated the point in controversy and in the considered opinion of this Court, there is no infirmity, illegality or jurisdictional error in the impugned order passed by the learned court below.

32. Consequently, in view of the observations made hereinabove, the present appeal, being devoid of any merit, deserves to be dismissed. Ordered accordingly.

33. Pending application(s), if any, shall also stand disposed of.

(Romesh Verma)
Judge

15th September, 2026
(vt)