

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.9849 of 2024

Date of Decision: 3.9.2026

Anish Mohammad

.....Petitioner

Versus

State of Himachal Pradesh and Ors.

.....Respondents

Coram

Hon'ble Mr. Justice Sandeep Sharma, Judge.

Whether approved for reporting?

For the Petitioner: Mr. Dhiraj Thakur and Ms. Priyanka Chandel,
Advocates.

For the Respondent: Mr. Rajan Kahol & Mr. Vishal Panwar, Additional
Advocates General and Mr. Ravi Chauhan & Mr.
Anish Banshtu, Deputy Advocates General, for
respondents No. 1 to 4.

Mr. Bhupinder Ahuja, Advocate, for respondent
No. 5.

Mr. Ankush Chauhan, Advocate vice Mr. Varun
Thakur, Advocate, for respondents No. 6 & 7.

Sandeep Sharma, J. *(Oral)*

Being aggrieved and dissatisfied with order dated 06.04.2023
(Annexure P-6) passed by the Divisional Commissioner, Mandi Division,
Mandi, Himachal Pradesh in Case No. 25 of 2019, titled as "Anis
Mohammad v. Ishan Khan and Ors.", whereby revision petition having been
filed by the petitioner herein under Section 17 of the Himachal Pradesh
Land Revenue Act, 1954 (in short the "Act"), laying therein challenge to

order dated 18.12.2018 passed by the Sub Divisional Collector Sadar, Tehsil Sadar, District Bilaspur, Himachal Pradesh, thereby allowing the application filed by respondent No. 5 under Section 5 of the Limitation Act along with appeal under Section 14 of the Act, came to be allowed, the petitioner herein has approached this Court in the instant proceedings filed under Article 226 of the Constitution of India, praying therein to set aside the aforesaid order.

2. Before advertng to the factual matrix of the case, this Court finds it necessary to take note of the fact that prior to filing of the petition at hand, petitioner had filed a revision petition under Section 17 of the Act in the Court of learned Financial Commissioner (Appeals), laying therein challenge to order dated 06.04.2023 passed by the Divisional Commissioner, Mandi Division, Mandi, but vide order dated 17.05.2024 (Annexure P-7), learned Financial Commissioner (Appeals) dismissed the revision petition being not maintainable on the ground that the impugned order dated 06.04.2023 has been passed by the Divisional Commissioner, Mandi Division, Mandi exercising the powers of Financial Commissioner (Appeals). In the aforesaid background, petitioner has approached this Court in the instant proceedings, praying therein to set aside order dated

06.04.2023 passed by Divisional Commissioner, Mandi Division exercising the powers of Financial Commissioner (Appeals).

3. Precisely, the grouse of the petitioner as has been highlighted in the grounds of petition and further canvassed by Mr. Dheeraj Thakur, learned counsel representing petitioner is that impugned order dated 06.04.2023 passed by the Divisional Commissioner, Mandi Division, Mandi whereby aforesaid authority proceeded to confirm order dated 18.12.2018 passed by Sub Divisional Collector Sadar, Tehsil Sadar, District Bilaspur, is erroneous and as such, cannot be permitted to sustain. He states that the aforesaid authority while upholding the order passed by the Sub Divisional Collector Sadar, Tehsil Sadar, failed to appreciate the argument advanced at the behest of the petitioner that Sub Divisional Collector Sadar, Tehsil Sadar, proceeded to allow the application under Section 5 of the Limitation Act in a routine manner without bothering to find out whether any plausible explanation has been rendered on record qua inordinate delay in filing the appeal under Section 14 of the Act. Mr. Thakur states that the Assistant Collector Second Grade had passed order dated 22.06.2009, attesting Mutation No. 892, whereupon respondent No. 5 also appended his signatures, which were duly verified by the BDC member of the area concerned. He submitted that respondent No. 5 remained silent for more

than ten years after passing of the aforesaid order and thereafter, proceeded to file an appeal against the same in the Court of Collector, Sub Division Sadar, District Bilaspur under Section 14 of the Act, but since same was barred by limitation, he also filed an application under Section 5 of the Limitation Act (Annexure P-2), but bare perusal of the same clearly reveals that no plausible explanation ever came to be rendered on record qua the inordinate delay in filing the appeal. However, both the authorities, i.e. Collector, Sub Division Sadar and thereafter, the Divisional Commissioner, Mandi, exercising powers of Financial Commissioner, proceeded to condone the delay in a routine manner, without bothering to ascertain whether plausible explanation has been rendered on record or not.

4. Precisely, the facts of the case as emerge from the pleadings as well as other material adduced on record by the respective parties are that vide Mutation No. 892 attested by the Assistant Collector Second Grade, the suit property devolved upon the petitioner as well as respondent No. 5 on the basis of a Will executed by their maternal grandmother. Learned Assistant Collector Second Grade attested the aforesaid mutation in the presence of petitioner and respondent No. 5 on 22.06.2009. Copy of Mutation No. 892 placed on record as Annexure P-1 reveals that the

aforesaid mutation was duly signed by petitioner as well as respondent No. 5, but after ten years of attestation of the aforesaid mutation, he chose to file an appeal before the Collector, Sub Division Sadar, District Bilaspur under Section 14 of the Act, praying therein to set aside the aforesaid order dated 22.06.2009 passed by Assistant Collector Second Grade, on the ground that his signatures have been forged on the mutation in question. At this stage, Mr. Bhupinder Ahuja, learned counsel representing respondent No.5, attempted to argue that mere mutation, if any, shall not confer any right upon the party, rather title can only be ascertained qua the property in question through a registered document. Since there was a delay in filing the aforesaid appeal, an application under Section 5 of the Limitation Act also came to be filed (Annexure P-2), perusal whereof nowhere suggests that plausible explanation ever came to be rendered on record for the inordinate delay in filing the appeal. In the application, respondent No. 5 simply stated that he acquired knowledge with regard to attestation of Mutation No. 892 in the year 2017, whereafter he immediately filed the appeal.

5. Sub Divisional Collector Sadar vide order dated 18.12.2018 (Annexure P-4) proceeded to decide the application filed under Section 5 of the Limitation Act. Having carefully perused the aforesaid order, this Court

is persuaded to agree with Mr. Dhiraj Thakur, learned counsel for the petitioner that the aforesaid authority, in the most mechanical manner and without assigning any reasons, proceeded to allow the application. There appears to be no attempt made at the behest of the aforesaid authority to ascertain whether plausible explanation, if any, has been rendered on record qua inordinate delay in filing the appeal. The afore authority, simply after having recorded the averments of the parties as well as judgments passed by the Hon'ble Apex Court, proceeded to condone the delay. There is no appreciation of pleadings made in that regard by the parties to the lis. Though an attempt came to be made by Mr. Bhupinder Ahuja, learned counsel representing respondent No. 5 to state that the factum with regard to attestation of Mutation No. 892 came to the notice of respondent No. 5 in the year 2017, but there is no whisper in the application that from whom respondent No. 5 acquired knowledge.

6. To the contrary, petitioner herein, while inviting the attention of the Court concerned to Mutation No. 892, successfully proved on record that the aforesaid mutation was attested in the presence of an independent witness, i.e. member of the BDC, before whom respondent No. 5 had put in his signatures. Interestingly, during the proceedings of the case, Mr. Bhupinder Ahuja, learned counsel for respondent No. 5 argued that even

one FIR was also filed against the petitioner as well as other stake holders for committing forgery, but such fact, if any, never came to be mentioned in the application filed under Section 5 of the Limitation Act. Moreover, during the proceedings of the case, this Court came to be apprised that a closure report was ultimately filed in the FIR, qua which respondent No. 5 is stated to have filed objections.

7. True, it is that while dealing with application for condonation of delay, Courts should not proceed with a tendency of finding fault with the cause shown and reject the petition by a slipshod order in over-jubilation of disposal drive, as has been held by the Hon'ble Apex Court, but at the same time, it is also well settled that a plausible explanation should be rendered on record by the party seeking condonation of delay. It is also well settled that at the time of deciding an application for condonation of delay, the merits of the main case are not to be touched, rather at the first instance, party seeking condonation of delay is under an obligation to satisfy the Court that the delay was neither willful nor intentional, rather owing to circumstances completely beyond his control. However, in the instant case, what to talk of plausible explanation, there is no explanation qua the inordinate delay of ten years. Simply by writing that he acquired knowledge

of attestation of Mutation No. 892 in the year 2017, cannot be said to be sufficient to condone the huge delay of ten years.

8. Leaving everything aside, this Court finds that there is no attempt on the part of the Collector, Sub Division Sadar and thereafter by the Divisional Commissioner, who proceeded to uphold the order of Collector Sadar, to appreciate the pleadings as well as arguments, if any, advanced at the behest of the parties to the lis, rather, both the authorities, after having taken note of the pleadings adduced on record by the parties and judgments pressed into service, proceeded to condone the delay in a mechanical manner.

9. At this stage, it would be apt to take note of the judgment rendered in **P.K. Ramachandran v. State of Kerala and another, (1997) 7 SCC 556**, wherein the Hon'ble Apex Court has held that the Court is bound to record satisfaction that explanation for delay was either reasonable or satisfactory, which is an essential prerequisite for condonation of delay. Relevant paras of the aforesaid judgment read as under:

“2. The respondent-State of Kerala and Anr. filed Miscellaneous First Appeal No.316/96 against the judgment and decree of the learned Sub Court at Kollam in Arbitration Application No. 108/92. The appeal was barred by 565 days. The respondents filed an application

seeking condonation of delay and by the order impugned herein, that delay was condoned. The impugned order reads thus :

"This is an application to condone the delay of 565 days in filing an appeal. The petition is seriously opposed by the respondent. But taking into consideration the averments contained in the affidavit filed in support of the petition to condone the delay, we are inclined to allow the petition. The petition stands allowed."

3. It would be noticed from a perusal of the impugned order (supra) that the court has not recorded any satisfaction that the explanation for the delay was either reasonable or satisfactory, which is essential pre-requisite to condonation of delay. That apart, we find that in the application filed by the respondent seeking condonation of delay, the thrust in explaining the delay after 12.5.1995, is:

"at that time the Advocate General's office was fed up with so many arbitration matters equally important to this case were pending for consideration as per the directions of the Advocate General on 2.9.1995."

6. Law of limitation may harshly effect a particular party but it has to be applied with all its rigour when the statute so prescribe and the Courts have no power to extend the period of limitation on equitable grounds. The discretion exercised by the High Court was, thus, neither proper nor judicious. The order condoning the delay cannot be sustained. This appeal, therefore, succeeds and the impugned order is set aside. Consequently, the application for condonation of delay filed in the High Court would stand rejected and the Miscellaneous First Appeal shall stand dismissed as barred by time."

10. Mr. Bhupinder Ahuja, learned counsel appearing for respondent No.5, also placed on record judgment passed by the Hon'ble

Apex Court in **N. Balakrishnan v. M. Krishnamurthy, (1998) 7 SCC 123**, which has been already relied upon by the authorities concerned while passing the impugned orders.

11. There cannot be any quarrel with the proposition of law laid down by the Hon'ble Apex Court in the afore judgment that refusal to condone delay can result in foreclosing a suitor from putting forth his cause and there is no presumption that delay in approaching the Court is always deliberate, but in the aforesaid judgment, the Hon'ble Court has further held that the words "sufficient cause" under Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice. However, in the instant case, as has been observed hereinabove, no cause, what to talk of sufficient cause, has been rendered on record qua the inordinate delay in filing the appeal. Bare perusal of the application, which has been adduced on record as Annexure P-2, nowhere suggests that attempt, if any, has been made by respondent No. 5 to explain the delay. He has simply stated that he acquired knowledge with regard to attestation of Mutation No. 892 in the year 2017, which, by no stretch of imagination, can be said to be a plausible explanation.

12. Consequently, in view of the above, this Court finds merit in the present petition and the same is allowed. The impugned orders dated

18.12.2018 (Annexure P-4), 6.4.2023 (Annexure P-6) and 17.5.2024 (Annexure P-7) are quashed and set aside and the matter is remanded back to the Collector, Sub Division Sadar, Bilaspur to decide the application filed under Section 5 of the Limitation Act afresh, taking note of the observations made hereinabove as well as the law on the point. The petition stands disposed of in aforesaid terms. Pending miscellaneous applications, if any, shall also stand disposed of.

September 3, 2026

(manjit)

**(Sandeep Sharma),
Judge**