



SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			<u>WPMS/2096/2026</u> Ashu Rawat & another --Petitioners Versus Smt. Sudha Sharma & another --Respondents <u>Hon'ble Manoj Kumar Tiwari, J.</u> Mr. Vikas Bahuguna, Advocate for the petitioner. 2. Suit filed by petitioners was decreed <i>ex-parte</i>. Respondent no. 1 filed an application for setting aside <i>ex-parte</i> decree with delay condonation application. Learned Trial Court rejected the delay condonation application, vide order dated 27.07.2024. Respondent no. 1 thereafter filed Miscellaneous Civil Appeal No. 86/2025, challenging Trial Court's order dated 27.07.2024. Learned District Judge, Dehradun allowed the appeal, vide judgment dated 23.05.2026 and condoned the delay in filing application under Order 9 Rule 13 CPC subject to payment of cost of ₹3,000/- and the Trial Court was directed to consider the application filed under Order 9 Rule 13 CPC on merits. 3. Petitioners have challenged the said judgment rendered by learned District Judge, whereby delay in filing application under Order 9 Rule 13 CPC was condoned. 4. Learned counsel for petitioners contends that learned Trial Court had rightly rejected the delay condonation application and the Appellate Court erred in allowing the appeal and condoning the delay. He further submits that relevant facts were not considered by learned District Judge, therefore, the impugned judgment is unsustainable in the eyes



		of law. 5. The judgment rendered by learned Appellate Court is on record as Annexure-1 to the writ petition. Learned Appellate Court has considered the submission made by respondent no. 1 that her husband fell ill due to coronavirus, who thereafter passed away, and the <i>ex-parte</i> decree was passed against her on 17.03.2022 while the nation was grappling with pandemic caused due to coronavirus. 6. Hon'ble Supreme Court in the case of <i>Bhivchandra Shankar More vs Balu Gangaram More & others</i> (Civil Appeal No. 4669 of 2019) while dealing with a similar issue of delay in filing application under Order 9 Rule 13 CPC held as under:- <i>“15. It is a fairly well settled law that “sufficient cause” should be given liberal construction so as to advance sustainable justice when there is no inaction, no negligence nor want of bonafide could be imputable to the appellant. After referring to various judgments, in B. Madhuri, this Court held as under:-</i> <i>“6. The expression “sufficient cause” used in Section 5 of the Limitation Act, 1963 and other statutes is elastic enough to enable the courts to apply the law in a meaningful manner which serves the ends of justice. No hard-and-fast rule has been or can be laid down for deciding the applications for condonation of delay but over the years courts have repeatedly observed that a liberal approach needs to be adopted in such matters so that substantive rights of the parties are not defeated only on the ground of delay.”</i> 16. Observing that the rules of limitation are not meant to destroy the rights of the parties, in <i>N. Balakrishnan v. M. Krishnamurthy</i> (1998) 7 SCC 123, this Court held as under:- <i>“11. Rules of limitation are not meant to destroy the rights 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</i>
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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.”

As pointed out earlier, an appeal under Section 96 CPC is a statutory right. Generally, delays in preferring appeals are required to be condoned, in the interest of justice, where there is no gross negligence or deliberate inaction or lack of bonafide is imputable to the party seeking condonation of delay.”

7. Law is well settled that rules of procedure are handmaid of justice, which are meant to advance the cause of justice. In the case of *B. Madhuri Goud v. B. Damodar Reddy (2012) 12 SCC 693*, it was held by Hon’ble Supreme Court that the expression “sufficient cause” used in Section 5 of the Limitation Act is elastic enough to enable the courts to apply the law in a meaningful manner which serves the ends of justice.

8. Having regard to the facts and circumstances of the present case, this Court is not inclined to interfere with the impugned judgment.

9. Mr. Vikas Bahuguna, learned counsel for the petitioners then submitted that he has instructions to make a statement that petitioners are giving up the challenge to judgment rendered by learned District Judge on 23.05.2026 and with a view to expedite hearing of the suit, application filed by respondent no. 1 under Order 9 Rule 13 CPC be allowed by this Court to avoid delay, which may be caused in



disposal of that application by the Trial Court.

10. Thus, while holding that the impugned judgment passed by learned District Judge calls for no interference, the application filed by respondent no. 1 under Order 9 Rule 13 CPC stands allowed, in view of concession made by learned counsel for petitioners.

11. The suit filed by petitioners shall stand restored to the file of Trial Court and an endeavour shall be made by learned Trial Court to decide the suit on merits, within one year.

12. With the aforesaid direction, the writ petition stands disposed of.

(Manoj Kumar Tiwari, J.)

15.07.2026

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CHANDRA

 I hereby certify that the above is a true and correct copy of the judgment as pronounced in open court.