

2609
2025
FRIDAY

Court : MB-07
Item : AD-04
Status : DC-OR
ID : 266057
AR : NANDY

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 3287 OF 2011
CAN 2 OF 2025
CAN 3 OF 2025

ROBIN COMMODEAL PVT. LIMITED & ANR.
VS.
ANDHRA BANK & ORS.

MR.SUDHASATVA BANERJEE, ADVOCATE
MR. DEBANGSHU DINDA, ADVOCATE
MS. DIBYANJANA DAS, ADVOCATE

.....for the Petitioners

MS. SOMA KAR GHOSH, ADVOCATE
MR. ASUTOSH SINGH, ADVOCATE

.....for the Respondent No. 3

CAN 2 OF 2025

1. Affidavit of service filed in Court today is taken on record.
2. This is an application for condonation of delay in filing the application for restoration, being CAN 3 of 2025.
3. Mr. Banerjee, learned Advocate appearing for the petitioner, submits that there was no intentional laches or negligence on the part of the petitioner. However, due to certain circumstances beyond the control of the petitioner, the application could not be filed within the period of limitation prescribed therefor.
4. Ms. Kar Ghosh, learned Advocate representing respondent no. 3, opposes such contention. She points out that the petitioner is not a diligent litigant and submits that there is a delay of almost 360 days.
5. Condonation of delay is a matter of discretion of the Court. It cannot be stated that such discretion can be exercised only if the delay is within a certain limit. The length of the delay is not important; the acceptability of the explanation is the only criterion. Sometimes, a delay of shorter duration may be uncondonable due to the absence of a satisfactory explanation, whereas in other cases, a longer delay may be condoned if the explanation is found to be reasonable. The rule of limitation is not meant to destroy the rights of a litigant. It is intended to ensure that a litigant does not resort to dilatory tactics and seeks his remedy promptly.
6. In the judgment reported in (1987) 2 SCC 107 (Collector, Land Acquisition, Anantnag & Anr. vs. Mst. Katiji & Ors.), the

Hon'ble Supreme Court of India held that the expression "sufficient cause" under Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice. It should be noted that a refusal to condone delay may result in a meritorious matter being shut out at the very threshold of the Court.

7. In every case, there may be some lapse on the part of the litigant. However, that alone would not be sufficient to close the doors of the temple of justice against him. The Court must examine whether the litigant resorted to dilatory tactics or was attempting to gain an unlawful advantage by causing the delay.
8. In the given case, I do not find any material to conclude that the petitioner resorted to dilatory tactics with an objective to secure some wrongful gain. In the application, it has been stated that the applicant is old aged person and due to his health issue, he could not file this application for restoration within the stipulated time. I am satisfied that 'sufficient cause' existed which prevented the petitioner from preferring the application for restoration.
9. Accordingly, the application for condonation of delay being **CAN 2 of 2025** is **allowed**.

CAN 3 of 2025

1. Having heard the learned advocates appearing for the respective parties and upon perusal of the materials on record, I am satisfied with the explanation offered for the absence of the learned Advocate when the writ petition was dismissed for default.
2. Accordingly, the application being **CAN 3 of 2025** is **allowed**.
3. The order dated **12.07.2024** is **recalled** and the **WPA 3287 of 2011** is **restored** to its original file and number.

WPA 3287 OF 2011

4. List the matter two weeks after the ensuing Puja Vacation for the year 2025.

(PARTHA SARATHI CHATTERJEE, J.)

