IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CIVIL APPLICATION (FOR CONDONATION OF DELAY) NO. 1180 of 2025
In F/FIRST APPEAL NO. 5128 of 2025

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CHENABEN LALJIBHAI HATHILA
Versus
NAVINCHANDRA KASTURBHAI KATHOTA & ORS.

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Appearance:
MR NISHIT A BHALODI(9597) for the Applicant(s) No. 1
NOTICE SERVED for the Respondent(s) No. 2,3
UNSERVED EXPIRED (N) for the Respondent(s) No. 1

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CORAM:**HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR**

Date : 04/12/2025
ORAL ORDER

[1.0] This application is filed under Section 5 of the Limitation Act for condonation of delay of 716 days caused in filing the First Appeal.

[2.0] Though served, respondent Nos.2 and 3 have chosen not to appear before this Court.

[3.0] It is submitted by the learned advocate for the applicant that the applicant could not file the First Appeal application in timely fashion because of the reasons mentioned in the application and therefore, has requested to condone the delay caused in filing the First Appeal.

[4.0] Learned advocate for respective respondents have vehemently opposed the present application.

[5.0] Considering the submissions made by the learned

advocates for the respective parties, the applicant has mentioned sufficient cause for condonation of delay. The primary function of the Court is to adjudicate the dispute between the parties and to advance substantial justice. Rules of limitation are not meant to destroy the rights of parties. The Court is aware of the fact that denial to condone the delay would mean to dismiss the First Appeal at threshold and there is no presumption that the delay caused by the applicant is deliberate. In view thereof, the words 'sufficient cause' under Section 5 of the Limitation Act should receive a liberal consideration so as to advance substantial justice. Even reason stated appears to be bonafide and genuine. There is no smack of malafide or dilatory tactics on the part of the applicant. Further, it is apposite to refer to the decision of the Hon'ble Apex Court in the case of **N. Balakrishnan v. N. Krishnamurthy** reported in **(1998) 7 SCC 123.**

[6.0] In view of the above, the delay of 716 days as explained in memo of the application is condoned. However, it is made clear that the claimant shall not claim interest for the aforesaid period of delay. The application is accordingly allowed.

(HASMUKH D. SUTHAR, J.)

Ajay

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: AJAY CHANDRAN MENON(HC00939), PRINCIPAL PRIVATE SECRETARY, at High Court of Gujarat on 04/12/2025 14:33:53