

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 13291 OF 2024  
WITH  
CIVIL APPLICATION NO. 3240 OF 2019  
IN  
FIRST APPEAL (ST) NO. 16865 OF 2019

The State of Maharashtra

..Applicant

Versus

Kashibai Balaram Patil (since deceased) through  
legal heirs & ors.

..Respondents

Mr. A. R. Patil, Addl. GP, for the Applicant - State

**CORAM : RAJESH S. PATIL, J.**

**DATE : 06.10.2025**

**P C.**

**CIVIL APPLICATION NO. 3240 OF 2019**

1. Mentioned. Not on board. Taken on board.
2. This Civil Application has been filed for condonation of delay of 1 year and 94 days in filing the First Appeal.
3. I have heard Mr. Patil, learned Addl. GP, for the Applicant – State and have gone through the contents of the Application.
4. Office remarks show that Respondents have duly served. None appears on behalf of the Respondents when the matter is called out.
5. Supreme Court in the judgment of *Collector, Land Acquisition*,

**Anantnag and another Vs. Mst. Katji and Others** reported in **1987 SC 1353**, has held that:

*“Every day’s delay must be explained” does not mean that a pedantic approach should be made. Why not every house’s delay. Every second’s delay ? The doctrine must be applied in a rational common sense pragmatic manner.”*

6. Supreme Court in the case of ***S. Ganesharaju (Dead) through Lrs V. Narasamma (Dead) through Lrs*** reported in **(2013) 11 SCC 341**, more specifically, paragraph Nos. 12 and 13, of the said judgment held that a liberal construction to the cause of delay should be given. The said paragraphs are reproduced herein below:

*12. The expression “sufficient cause” as appearing in Section 5 of the Limitation Act, 1963, has to be given a liberal construction so as to advance substantial justice. Unless the respondents are able to show malafides in not approaching the court within the period of limitation, generally as a normal rule, delay should be condoned. The trend of the courts while dealing with the matter with regard to condonation of delay has tilted more towards condoning delay and directing the parties to contest the matter on merits, meaning thereby that such technicalities have been given go-by.*

*13. The rules of limitation are not meant to destroy or foreclose the right of parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly.*

7. Bombay High Court in the judgment of ***Kamalbai Narasaiyya Shrimal and Another Vs. Ganpat Vithalrao Gavare*** reported in **2007 (1)**

**MH. L.J. 807**, paragraph Nos.13 and 15 has held:

*13. The factual position is manifestly clear on bare perusal of the application for condonation filed by the petitioners before the learned District Judge. The only relevant statement in the application is thus:*

*“The delay caused in preferring the appeal is of six months. The caused delay is not intentional one. The appellants are poor and helpless persons. If the delay is not condoned appellant may cause irreparable loss which cannot be compensated in terms of money. The suit was for recovery of possession and present appellants are tenants. If the delay is not condoned then appellants will become shelterless.”*

*15. The expression “sufficient cause” cannot be erased from section of the Limitation Act by adopting excessive liberal approach which would defeat the very purpose of section 5 of the Limitation Act. There must be some cause which can be termed as a sufficient one for the purpose of delay condonation. I do not find any such “sufficient cause” stated in the application and as such no interference in the impugned order is called for.”*

8. Considering the facts of the present case and the law laid down in the above Judgments, I am convinced that the present Civil Application deserves to be allowed. The Interim Application is allowed in terms of **prayer clause (b)**.

9. The Civil Application is accordingly disposed of.

**INTERIM APPLICATION NO. 13291 OF 2024**

1. This Interim Application is filed for condoning the delay of 1 year, 6 months and 28 days in preferring the Appeal and for bringing

legal heirs of the deceased Respondent No. 3. Amendment to be carried out within a period of four weeks from today.

2. Heard Mr. Patil, learned Addl. GP for the Applicant – State.

3. Office remarks show that the Respondents have been duly served. None appears on behalf of the Respondents when the matter is called out.

4. The Division Bench of this Court in *Keshao s/o. Kawadu Maral and another Versus State of Maharashtra and others*, reported in *2005 (1) MahLJ 1059*, condoned the delay of six years in filing the Application of bringing the legal heirs on record, relying on the Supreme Court judgment of *Sardar Amarjit Singh Karla (dead) by LRS. and others Versus Pramod Gupta (Smt.) (dead) by LRS. and others, reported in 2003 (3) SCC 272*.

5. Having heard Mr. Patil, learned Addl. GP for the Applicant – State. After going through the Interim Application and considering the law laid down in the above Judgment, I am convinced that this Interim Application deserves to be allowed.

6. The Interim Application is allowed in terms of **prayer clauses (b), (c) and (d)**.

(RAJESH S. PATIL, J.)