

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2214 OF 2025

Indian National Press (Bombay) Pvt. Ltd. ...Petitioner

Versus

M/s. Ruia Textiles ...Respondent

Mr. Hrushi Narvekar, a/w Kushan Kode, i/b Vashi & Vashi,
for the Petitioner.

CORAM: N. J. JAMADAR, J.

DATED: 14th JULY, 2025

Oral Order:-

1. Heard the learned Counsel for the petitioner.
2. The challenge in this petition is to an order dated 13th November, 2024 passed by the Appellate Bench of the Court of Small Causes in MARJI Application No.71 of 2024, whereby the Appellate Bench was persuaded to allow the application to condone the delay of 141 days in preferring the appeal against a judgment and decree passed by the Trial Court on 9th May, 2023 in RAD Suit No.2295 of 1993, whereby the respondent – plaintiff sought a declaration that he was a tenant in the demised premises.
3. The respondent – plaintiff filed MARJI Application No.71 of 2024 asserting that he could not file an appeal within the

stipulated period of limitation as he was unwell. In the month of July and August he was suffering from Parkinson's disease and was advised not to travel. In the month of September, he had suffered a fall and a back injury therein. Therefore, there was delay in filing the appeal.

4. The application was resisted by the petitioner. It was, *inter alia*, contended that the reasons ascribed by the respondent – plaintiff were not *bona fide*, and demonstrably false.

5. By the impugned order the Appellate Bench, though doubted the genuineness of the certificate pressed into service on behalf of the respondent to account for the delay, having regard to the checkered history of the litigation and to advance the cause of substantive justice condoned the delay subject to payment of costs of Rs.20,000/-.

6. The learned Counsel for the petitioner submitted that having recorded a finding that there appeared a doubt about the reliability of the certificates produced by the respondent – plaintiff, the Appellate Bench could not have exercised the discretion to condone the delay. Laying emphasis on the qualification of Dr. Mankul Goyal, especially, his expertise in the skin and hair diseases, it was submitted that the

respondent could not have had treatment for Parkinson's disease and that too at Delhi. Even the second ground of illness on account of the fall is not *prima facie* supported by the material on record as the respondent had availed treatment in the month of October, 2023. In these circumstances, the Appellate Bench committed irregularity in exercise of the condonation of delay. No sufficient cause was ascribed by the respondent was the thrust of the submission.

7. I have perused the material on record including medical certificates pressed into service on behalf of the respondent. It is necessary to keep in view the nature of the jurisdiction that was exercised by the Appellate Bench of the Court of Small Causes. An application for condonation of delay, it is trite, deserves a liberal consideration. The courts lean in favour of condonation of delay so as to advance the cause of substantive justice as the majesty of court lies in deciding the matter on merit rather than on technicalities. Thus, an application for condonation of delay is construed liberally so that the procedure which is handmaid of justice does not score a march over the substantive justice.

8. In the case at hand, the respondent had ascribed the cause of personal illness as the circumstance which

prevented him from filing appeal within the stipulated period of limitation. The respondent did produce medical certificate to substantiate his claim. The Appellate Bench did entertain doubt about the genuineness of the certificate primarily for the reason that the certificate issued by Dr. Goyal did not bear any date and the said Doctor appeared to be an expert in Dermatology. That cannot be the approach in the matter of an application for condonation of delay. It is not inconceivable that, in a given situation, a specialist in Dermatology may treat a patient suffering from other illness. It is not the case that Dr. Goyal was not a qualified Physician.

9. In any event, the Appellate Bench has exercised the discretion to condone the delay. There is subtle yet significant difference in the approach to be adopted by the Appellate or Revisional Court when it is called upon to examine the legality and correctness of an order condoning, or refusing to condone, the delay. When the Court of first instance condones the delay it is an act of exercise of positive discretion, Appellate or Revisional Court exercising supervisory or revisional jurisdiction ought not lightly interfere with such a positive discretion unless the decision is perverse or there is no reason for condonation of delay. The

Appellate or Revisional Court is free to examine the reasons ascribed for condonation of delay and draw its own conclusions.

10. A useful reference, in this context, can be made to the decision of the Supreme Court in the case of *N. Balakrishnan V/s. M. Krishnamurthy* wherein the law was enunciated as under:

“9. It is axiomatic that condonation of delay is a matter of discretion of the court Section 5 of the Limitation Act does not say that such discretion can be exercised only if the delay is within a certain limit. Length of delay is no matter, acceptability of the explanation is the only criterion. Sometimes delay of the shortest range may be uncondonable due to want of acceptable explanation whereas in certain other cases delay of very long range can be condoned as the explanation thereof is satisfactory. Once the court accepts the explanation as sufficient it is the result of positive exercise of discretion and normally the superior court should not disturb such finding, much less in reversional jurisdiction, unless the exercise of discretion was on whole untenable grounds or arbitrary or perverse. But it is a different matter when the first cut refuses to condone the delay. In such cases, the superior cut would be free to consider the cause shown for the delay afresh and it is open to such superior court to come to its own finding even untrammelled by the conclusion of the lower court.

10. The reason for such a different stance is thus:

The primary function of a court is to adjudicate the dispute between the parties and to advance substantial justice. Time limit fixed for approaching the court in different situations is not because on the expiry of such time a bad cause would transform into a good cause.

11. Rules of limitation are not meant to destroy the right 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. Law of limitation fixes a life-span for such legal remedy for the redress of the legal injury so suffered. Time is precious and the wasted time would never revisit. During efflux of time newer causes would sprout up necessitating newer persons to seek legal remedy by

approaching the courts. So a life span must be fixed for each remedy. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. 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 right 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.

12. A court knows that refusal to condone delay would result foreclosing a suitor from putting forth his cause. There is no presumption that delay in approaching the court is always deliberate. This Court has held that the words "sufficient cause" under Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice vide *Shakuntala Devi Jain V/s. Kuntal Kumari* (AIR 1969 SC 575) and *State of W.B. V/s. Administrator, Howrah Municipality* ((1972) 1 SC 366).

13. It must be remembered that in every case of delay there can be some lapse on the part of the litigant concerned. That alone is not enough to turn down his plea and to shut the door against him. If the explanation does not smack of *mala fides* or it is not put forth as part of a dilatory strategy the court must show utmost consideration to the suitor. But when there is reasonable ground to think that the delay was occasioned by the party deliberately to gain time then the court should lean against acceptance of the explanation. While condoning delay the Court should not forget the opposite party altogether. It must be borne in mind that he is a loser and he too would have incurred quiet a large litigation expenses. It would be a salutary guideline that when courts condone the delay due to laches on the part of the applicant the court shall compensate the opposite party for his loss."

(emphasis supplied)

11. In the case at hand, the period of delay cannot be said to be inordinate. Nor can be it be said that no reason was ascribed for not preferring the appeal within the stipulated period. The certificates relied upon by the respondent may be viewed in different perspectives. However, it cannot be said

that the respondent failed to ascribe a sufficient cause. In the aforesaid view of the matter, in exercise of supervisory jurisdiction, this Court does not find any infirmity in the impugned order. The petition, therefore, deserves to be dismissed.

12. The petition stand dismissed.

[N. J. JAMADAR, J.]