

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**FIRST APPEAL (ST) NO. 95225 OF 2020
WITH
INTERIM APPLICATION NO. 14868 OF 2023**

Jindas Gulabchand Hundia (since deceased) ..Appellants
through legal heirs & anr.

Versus

Union of India & ors. ..Respondents

**WITH
INTERIM APPLICATION NO. 7316 OF 2025
IN
FIRST APPEAL (ST) NO. 95225 OF 2020**

Rakesh Kumar Hundia Jain & ors. ..Applicants

IN THE MATTER BETWEEN

Jindas Gulabchand Hundia (since deceased) ..Appellants
through legal heirs & anr.

Versus

Union of India & ors. ..Respondents

Mr. Ajinkya Udane, Advocate, for the Appellants
Mr. Anil Kumar Singh i/b. Mr. D. P. Singh, Advocates, for Respondent
No.1
Mr. Rakesh Singh i/b. M/s. M. V. Kini & Co., Advocate, for Respondent
No. 2
Mr. Mayur Sonawane, AGP, for the Respondent – State

CORAM : RAJESH S. PATIL, J.

DATE : 17.12.2025

P. C.

INTERIM APPLICATION NO. 14868 OF 2023

1. This Interim Application has been filed for condonation of delay of 175 days in filing the First Appeal.

2 The First Appeal challenges the Award dated 21.01.2020 and the First Appeal along with Delay Condonation Application were filed on 12.10.2020.

3. 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.”

4. 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.

5. 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.”

6. Considering the facts of the present case and the law laid down

in the above Judgments, I am convinced that the present Interim Application deserves to be allowed. The Interim Application **stands allowed** in terms of **prayer clause (A)**.

FIRST APPEAL (ST) NO. 95225 OF 2020

1. Heard learned Counsel for the respective parties.
2. **Admit.**
3. The Appellant to file private paper-book within a period of six months from today. A copy of the same to be served on other side.
4. Soft copy of R & P be sent by the trial Court to the High Court within 4 weeks from today. Original R & P should be preserved by the trial Court till further orders of this Court. Original R & P to be sent to the High Court when called for.

(RAJESH S. PATIL, J.)