



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO.7955 OF 2025
IN
CIVIL REVISION APPLICATION (ST) NO.13772 OF 2025
WITH
CIVIL REVISION APPLICATION (ST) NO.13772 OF 2025**

Sameer Ahmed Gulab Chaudhari (Pinjari) ... Applicant
versus
Raziya Gulab Mansoori and Ors. ... Respondents

Mr. B.H.Goswami, for Applicant.

CORAM: N.J.JAMADAR, J.

DATE : 4 NOVEMBER 2025

ORAL ORDER :

1. Heard the learned Counsel for the Applicant.
2. This is an application for condonation of 423 days delay in filing the revision application against an order dated 20 November 2023, passed by the learned Civil Judge, Thane in Special Civil Suit No.357 of 2022, whereby the application preferred by the Applicant for rejection of the plaint under Order VII Rule 11 of the Code of Civil Procedure, 1908, came to be rejected.
3. The suit is instituted by the wife of the Applicant for award and recovery of maintenance. The applicant claims the marriage has been lawfully dissolved.
4. There is a delay of 423 days in filing the present revision application. I have perused the avements in the application for condonation of delay.

Ordinarily, an application for condonation of delay is liberally construed and the Courts lean in favour of condonation of delay to advance the cause of substantive justice. However, the applicant must make out a cause for condonation of delay.

5. The learned Counsel for the Applicant invited attention of the Court to the averments in paragraph Nos.6 and 7 of the Application which, according to the learned Counsel for the Applicant, make out a sufficient cause for condonation of delay. Paragraph Nos.6 and 7 of the application read as under

:

“6.Applicant states that, he is residing at Gujarat and being a professor he was always under pressure of work and he was unable to attend the court proceedings at Thane, except few occasions and he was in touch with his Advocate on mobile phone.

7. Applicant states that, he had instructed his Advocate to take appropriate steps and file appropriate proceedings to challenge the said order before appropriate forum against the order dated 20 November 2023 under Order 7 Rule 11(d) of Civil Procedure Code and Order for maintenance below Exh.5 and due to genuine miscommunication and misinterpretation of facts the applicant was under impression that, he has filed appropriate proceedings to challenge the order dated 20 November 2023 under Order 7 Rule 11(d) of the Civil Procedure Code.”

6. I am afraid, the aforesaid reasons constitute a cause, much less a

sufficient one, for condonation of delay. The applicant is stated to be a professor. The assertion in the application that the applicant was under an impression that steps have been taken to assail the order passed by the learned Civil Judge, does not appeal to human credulity, having regard to the situation in life of the applicant. It defies comprehension as to how a statement could be made that, the applicant was under an impression that the proceedings has been filed to challenge the order dated 20 November 2023, without the applicant signing and affirming the revision application and the necessary documents, including the Vakalatnama. The applicant has singularly failed to ascribe a single reason for condonation of delay.

7. A profitable reference in this context can be made to a recent judgment of the Supreme Court in the case of ***Thirunagalingam v. Lingeswaran***¹. The Supreme Court has cautioned against condonation of huge delay as an act of generosity. The observations in paragraphs 31 and 32 read as under :

“31. It is a well-settled law that while considering the plea for condonation of delay, the first and foremost duty of the court is to first ascertain the *bona fides* of the explanation offered by the party seeking condonation rather than starting with the merits of the main matter. Only when sufficient cause or reasons given for the delay by the litigant and the opposition of the other side is equally balanced or stand on equal footing, the court may consider the merits of the main matter for the purpose of condoning the delay.

1 2025 INSC 672.

32. Further, this Court has repeatedly emphasised in several cases that delay should not be condoned merely as an act of generosity. The pursuit of substantial justice must not come at the cost of causing prejudice to the opposing party. In the present case, the respondents/defendants have failed to demonstrate reasonable grounds of delay in pursuing the matter, and this crucial requirement for condoning the delay remains unmet.” (emphasis supplied)

8. In the case of ***H. Guruswamy and others vs. A. Krishnaiah since deceased by LR(s)***², the Supreme Court again emphasised that the concepts of, “liberal approach”, and “substantial justice” should not be employed to frustrate the law of limitation. It was enunciated that the length of the delay is definitely a relevant matter which the Court must take into consideration while deciding whether the delay should be condoned or not. The observations of the Supreme Court in paragraphs 13 to 17 are instructive and, hence, extracted below :

“13. We are at our wits end to understand why the High Court overlooked all the aforesaid aspects. What was the good reason for the High Court to ignore all this? Time and again, the Supreme Court has reminded the District judiciary as well the High courts that the concepts such as “liberal approach”, “Justice oriented approach”, “substantial justice” should not be employed to frustrate or jettison the substantial law of limitation.

2 2025 SCC Online SC 54.

14. We are constrained to observe that the High Court has exhibited complete absence of judicial conscience and restraints, which a judge is expected to maintain while adjudicating a lis between the parties.

15. The rules of limitation are not meant to destroy the rights of parties. They are meant to see that the parties do not resort to dilatory tactics but seek their remedy promptly.

16. The length of the delay is definitely a relevant matter which the court must take into consideration while considering whether the delay should be condoned or not. From the tenor of the approach of the respondents herein, it appears that they want to fix their own period of limitation for the purpose of instituting the proceedings for which law has prescribed a period of limitation. Once it is held that a party has lost his right to have the matter considered on merits because of his own inaction for a long, it cannot be presumed to be non-deliberate delay and in such circumstances of the case, he cannot be heard to plead that the substantial justice deserves to be preferred as against the technical considerations. While considering the plea for condonation of delay, the court must not start with the merits of the main matter. The court owes a duty to first ascertain the bona fides of the explanation offered by the party seeking condonation. It is only if the sufficient cause assigned by the litigant and the opposition of the other side is equally balanced that the court may bring into aid the merits of the matter for the purpose of condoning the delay.

17. We are of the view that the question of limitation is not merely a technical consideration. The rules of limitation are based on the principles of sound public policy and principles of equity. No court

should keep the 'Sword of Damocles' hanging over the head of a litigant for an indefinite period of time." (emphasis supplied)

9. Applying the aforesaid principles to the facts of the case, the application for condonation of delay deserves to be rejected.

10. The Interim Application stands rejected.

11. In view of the rejection of the Interim Application, Civil Revision Application also stands disposed.

(N.J.JAMADAR, J.)