

Before : Anil H. Laddhad,
Prothonotary & Senior Master
Date : 22nd July, 2025

FOR HEARING AND FINAL DISPOSAL :

35 CHOL/289/2025) Mr. G. J. Jain, Advocate for the applicant/org.
 in) plaintiff.
 SL/20694/2022)
) Mr. Niranjana Vaghela, Advocate for
) respondent/org. defendant.
)
) P.C.: The present Chamber Order is filed by the
) applicant for setting aside Order dated
) 28.11.2023, rejecting captioned Suit under
) O.S.Rule 986 for non-compliance of office
) objections by condoning delay of 437 days
) caused in filing present Chamber Order.
)
) Heard Id. Advocate for the applicant. Perused
) Affidavit in Support to the Chamber Order
) filed by the applicant. It is contended that the
) plaintiff appointed Advocate Sandeep Kadam,
) however, he did not pursue the matter
) diligently to remove office objections within
) the period granted by the Authority due to
) which captioned Suit came to be dismissed for
) non-compliance of office objections, vide
) Order dated 28.11.2023.
)
) It is further submitted that erstwhile Advocate
) filed Chamber Order No. 222/2024 on
) 26.04.2024 for restoration of captioned Suit.
) However, previous Advocate did not diligently
) pursue said Chamber Order. In the meantime,
) on 03.03.2025 the plaintiff appointed present
) Advocate, who after verifying record, tried to
) search the Chamber Order No. 222/2024.
) In spite of several efforts, Chamber Order did
) not find in the department and therefore, it
) could not be reconstructed, which constrained
) the plaintiff to file present Chamber Order
) with a prayer to condone delay of 434 days.
)
) It is vehemently submitted that delay has been
) caused due to negligence of erstwhile
) Advocate for which the plaintiff, who is senior

contd....) citizen of 66 yrs., should not be suffered. It is
CHOL/289/2025) further contended that in the event delay is
in) condoned, no prejudice will be caused to the
SL/20694/2022) defendant.
)
) The defendant by filing Affidavit in Reply as
) well as written submissions vehemently
) opposed the present Chamber Order. It is
) submitted that since the date of filing of the
) suit neither the plaintiff nor her Advocate took
) appropriate steps to remove office objections
) within stipulated period. Although the
) plaintiff put entire blame on erstwhile
) Advocate, but she herself failed to file single
) notice against erstwhile Advocate nor she has
) taken any steps against Advocate for his
) negligence. Advocate further vehemently
) argued that the plaintiff and her Advocate
) purposefully hid earlier Chamber Order No.
) 222/2024, for which his submissions are
) incomplete. It is further contended that delay
) is not properly calculated by the plaintiff. In
) fact, there is delay of 520 days. Ld. Advocate
) to substantiate his submissions that party
) cannot put entire blame on Advocate for not
) taking any steps, relied on the Judgment of the
) Hon'ble Apex Court ***in case of Rajneesh Kumar***
) ***Vs. Ved Prakash dated 21.11.2024.*** The
) relevant paragraph no. 10 of said Judgment is
) reproduced hereunder :
)
)
) "10. It appears that the entire blame
) has been thrown on the head of the
) advocate who was appearing for the
) petitioners in the trial court. We have
) noticed over a period of time a
) tendency on the part of the litigants
) to blame their lawyers of negligence
) and carelessness in attending the
) proceedings before the court. Even if
) we assume for a moment that the
) concerned lawyer was careless or
) negligent, this, by itself, cannot be a

citizen of 66 yrs., should not be suffered. It is further contended that in the event delay is condoned, no prejudice will be caused to the defendant.

The defendant by filing Affidavit in Reply as well as written submissions vehemently opposed the present Chamber Order. It is submitted that since the date of filing of the suit neither the plaintiff nor her Advocate took appropriate steps to remove office objections within stipulated period. Although the plaintiff put entire blame on erstwhile Advocate, but she herself failed to file single notice against erstwhile Advocate nor she has taken any steps against Advocate for his negligence. Advocate further vehemently argued that the plaintiff and her Advocate purposefully hid earlier Chamber Order No. 222/2024, for which his submissions are incomplete. It is further contended that delay is not properly calculated by the plaintiff. In fact, there is delay of 520 days. Ld. Advocate to substantiate his submissions that party cannot put entire blame on Advocate for not taking any steps, relied on the Judgment of the Hon'ble Apex Court ***in case of Rajneesh Kumar Vs. Ved Prakash dated 21.11.2024.*** The relevant paragraph no. 10 of said Judgment is reproduced hereunder :

“10. It appears that the entire blame has been thrown on the head of the advocate who was appearing for the petitioners in the trial court. We have noticed over a period of time a tendency on the part of the litigants to blame their lawyers of negligence and carelessness in attending the proceedings before the court. Even if we assume for a moment that the concerned lawyer was careless or negligent, this, by itself, cannot be a

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contd....      )
    CHOL/289/2025      )
        in      )
    SL/20694/2022      )

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ground to condone long and inordinate delay as the litigant owes a duty to be vigilant of his own rights and is expected to be equally vigilant about the judicial proceedings pending in the court initiated at his instance. The litigant, therefore, should not be permitted to throw the entire blame on the head of the advocate and thereby disown him at any time and seek relief.”

After considering rival submissions of the parties and after perusal of the record, it is not in dispute that suit was on lodging number and erstwhile Advocate did not take proper steps to remove office objections. Ld. Advocate for defendant tried to point out that the plaintiff has several Advocates, appeared in different proceedings. Upon perusal of relevant documents, relied upon by defendant, I do not see same Advocate i.e. Sandeep Kadam had appeared anytime for the plaintiff in all proceedings. The reasons assigned by the plaintiff are on his affidavit. In my view, the plaintiff assigned sufficient reasons to condone delay. Even otherwise also it is well settled law that negligence of the Advocate should not be come in the way of plaintiff to seek justice. Moreover, the proceeding is at preliminary stage. In my view, if delay is condoned, no prejudice will be caused to the defendant. Inconveniency if any, caused to the defendant, can be compensated by awarding reasonable cost. For the forgoing discussion, I proceed to pass following order :

ORDER

The delay of 437 days caused in filing present Chamber Order is condoned and present Chamber Order is granted as prayed subject to payment of cost of Rs. 5,000/-, to the

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contd....	)	defendant. Chamber Order is signed
CHOL/289/2025	)	separately.
in	)	
SL/20694/2022	)	The plaintiff to remove office objections on the
	)	Suit and get the same numbered and/or
	)	registered within four weeks from the date of
	)	payment of cost, failing Suit to stand rejected
	)	for non-compliance of office objections under
	)	O.S.Rule 986.

Date : 22.07.2025

Prothonotary and Senior Master

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signed by
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