



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CIVIL APPLICATION (CAA) NO.33 OF 2024

IN

APPEAL AGAINST ORDER (ST) NO.1481 OF 2024

[Anita w/o Rajesh Upadhyay ..Vs.. Automark Industries (India) Pvt.
Ltd.]

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Mr S. K. Bhoyar, Advocate for Applicant.
Mr H. V. Thakur, Advocate for Non-Applicant.

CORAM : M. W. CHANDWANI, J.

DATE : 24th JULY, 2025.

1. Heard.
2. By the present application, the applicant is seeking condonation of delay of 601 days caused in filing the appeal against order.
3. The contention is that, the order came to be passed on 20.03.2020 by the Adhoc District Judge-2 and ASJ, Nagpur in Trade Mark Suit No.6 of 2019. The covid pandemic started from 15.03.2020 and the Hon'ble Supreme Court directed to exclude the period from 15.03.2020 to 20.02.2022 while calculating the period of limitation. Further, the contention is that the applicant came to know about the impugned order in the month of February - 2023 and immediately applied for vacation of the said order on the application. The order on application was carried upto the High Court and the High Court on 14.12.2023 opined that the appellant may challenge the original order of injunction

dated 20.03.2020. This appeal came to be filed on 19.01.2024, therefore, according to him, the applicant was diligent throughout the period.

4. Conversely, the application is objected on the ground that the applicant was aware about the injunction order in the month of December – 2020, when the proceedings before the Registrar of Trade Mark were going on between the parties. Therefore, the delay has not been properly explained, more particularly from the months of December - 2022 and February – 2023.

5. Replying to this submission, learned counsel for the applicant submitted that the proceedings before the Registrar of Trade Mark were being conducted by a separate counsel and the counsel who was in contact with the applicant never informed about passing of the injunction order in the month of December – 2020.

6. It is settled principle of law that ‘sufficient reason’ is to be construed liberally. If no *malafide* intention is shown for causing the delay, then the Court should generally lean in favour of condoning the delay. In *Sheo Raj Singh (Deceased) thru. Legal Representatives and others vs. Union of India and another*, (2023) 10 SCC 531, the Supreme Court has observed that ‘sufficient cause’ should be adequately elastic to enable the Courts to apply the law in a meaningful manner which subserves the ends of justice and should be considered with pragmatism in a justice-oriented approach rather than the technical detection of sufficient cause for explaining

every day's delay. The length of delay is not always decisive while exercising discretion, if the delay is properly explained.

7. In the present case, the impugned order has been passed on 20.03.2020 during the period where the pandemic situation was prevailing in the entire country and Central Government had imposed restrictions on movements in the affected area. That apart, the Hon'ble Supreme Court directed to exclude the period from 15.03.2020 to 20.02.2022 while calculating the delay. It is also a matter of record that an application for vacation of order was filed and it was carried upto this Court. By order dated 14.12.2023, the said proceedings were put to rest and thereafter, this appeal came to be filed. That Apart, there is nothing on record to show that the delay has been caused with *malafide* intention. Substantial justice cannot be denied for technical reasons and therefore, delay in filing the appeal against order is condoned subject to payment of costs of Rs.21,000/- to be paid to "Tiroda Bar Association" for the development of its library within three weeks from today.

Corrected as per order
dated 19.09.2025

8. Accordingly, the application stands disposed of.

JUDGE