



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

FIRST APPEAL NO.333 OF 2018

Rameshchandra s/o Kanhailal Shraogi, aged about 77 years, Occ. Legal Practitioner & Agriculturist, R/o Sarafa Line, Telhara, Tq. Telhara, Dist. Akola.

... APPELLANT

VERSUS

1. Sarvajanic Lokmanya Vachanalay Telhara, bearing Registration No.E-9 (Akola), Tq. Telhara, Distt. Akola, represented by Devidas Krushnarao Bhujbale, Aged Adult, Occu: Agriculturist, R/o Telhara, Tq. Telhara, Distt. Akola.
2. Devidas s/o Krushnarao Bhujbale, Aged 61 years, Occu: Agriculturist,
3. Naresh S/o Kunjilal Choudhary, Aged 61 years, Occu: Legal Practitioner
4. Sushant S/o Rajaramji Munje, Aged 41 years, Occu:Agriculturist,
5. Jeetendra S/o Ratanchand Shah, Aged 41 years, Occu: Agriculturist,
6. Sandeep S/o Ganeshsinh Solanki, Aged 36 years, Occu: Agriculturist,
7. Arvind S/o Tejmalji Tapadia, Aged 51 years, Occu: Agriculturist Nos. 2 to 7 r/o Telhara, Tq. Telhara, Dist. Akola.
8. Assistant Charity Commissioner, Office of Assistant Charity Commissioner, Near

Income Tax Office, Akola, Tq. & Dist.
Akola.

... RESPONDENTS

Shri R.L. Khapre, Senior Advocate a/b Shri R.G. Kavimandan,
Advocate for the appellant.
Shri Anzar Baig Mirza, Advocate for respondents.

CORAM : PRAVIN S. PATIL, J.

CLOSED ON : 20.09.2025.

PRONOUNCED ON : 07.10.2025.

JUDGMENT :

1. Heard.
2. By this appeal, the appellant is challenging the rejection of application for condonation of delay by learned District Judge, Akot in M.J.C. No.25/2016 by order dated 18.04.2017.
3. Respondent no. 1 is registered Trust as per the provisions of the Maharashtra Public Trust act. The only surviving trustee Ratanchand K. Shaha to regulate and provide further administration of the Trust requested to the Assistant Charity Commissioner to frame a Scheme. Accordingly, on 25.04.2013 public notice was issued by the learned Assistant Charity Commissioner by affixing the notice at Library/Vachanalaya and on notice board of Municipal Council, Telhara for calling objections. Assistant Charity Commissioner, did not receive any objection for framing the scheme, and

therefore, by order dated 05.12.2013, the Scheme was framed for the Trust.

4. The present appellant claims that he is the interested person as his great grandfather in the year 1896, donated the property for the purpose of running the Library. It is also his submission that, according to the terms of the Gift Deed, if the property is not used for the purpose of Library, then the suit property would go back to the family of the donor.

5. The appellant states that he could not get knowledge about the public notice issued by the Assistant Charity Commissioner for framing the Scheme. It is his submission that he got knowledge of the framing of the Scheme in the year 2015. According to him, new Scheme formulated and approved by the Assistant Charity Commissioner is contrary to the purpose for which the property was donated, and the property is likely to be used for commercial purpose.

6. The appellant stated that immediately after getting the knowledge of framing of the Scheme, he has applied for the certified copy to the office of the Assistant Charity Commissioner on 01.09.2015. However, at the same time his son namely Nitin suffered brain attack and he was required to be Hospitalized at Akola. His son was gone through the major brain operation. As such the appellant was required to stay at Hospital and take care of his son. Thus practically for more than one year, he was not in a position to prosecute his cause in the matter.

7. The appellant stated that after his son was recovered from the brain injury, then the appellant had applied for the certified copy on 20.06.2016. The copies were received on 25.08.2016 from the office of the Assistant Charity Commissioner. After the receipt of the same, he has filed proceedings under Section 72 challenging the order of the Assistant Charity Commissioner before the District Judge, Akot on 24.10.2016. Hence, according to the appellant, considering this factual position, the delay caused in filing the application under Section 72 of the Maharashtra Public Trusts Act, deserves to be condoned to contest the application on its own merits.

8. In the meantime, as per Scheme framed by the learned Assistant Charity Commissioner, new body of the persons came in power as an Executive Committee of the Trust. They have strongly opposed the application stating that the reason put forth by the appellant is not justified in the matter. According to them, no specific period of delay is mentioned in the application. It is stated by the appellant that on 01.09.2015, he has applied for the certified copy, but same was not placed on record. As such, incorrect statement has been made about certified copies. It is further stated by them that there is no explanation of delay from the period of 05.12.2013 to 01.09.2015 and from 25.08.2016 to 24.10.2016. Hence, according to them, there is no sufficient reason stated in the application, consequently the delay cannot be condoned in the facts and circumstances of the matter.

9. Learned Counsel for the appellant in support of his submission

has relied upon the following judgments :

- (i) Chandrakant s/o Jaydevshankar Thakur(Deleted) Jagjeet Singh Gurusharan Singh and Others vs Alka Sahani and Others 2021 DGLS (Bom.) 574.
- (ii) Dr. R.P Kapoor and Others vs The Charity Commissioner, Maharashtra State and Others AIR 1989 BOMBAY 274.
- (iii) State of Nagaland vs Lipok AO and Others (2005) 3 SCC 752.
- (iv) Shakil Musa Patel and another vs Dilipsing Pratapsing Patil and Others 2014 (1) Mh.L.J. 960.

10. The learned Counsel for the respondent has relied upon the following judgments :

- (i) Balwant Singh (Dead) vs Jagdish Singh and Others (2010) 8 SCC 685.
- (ii) Basawaraj and another vs Special Land Acquisition Officer (2013) 14 SCC 81
- (iii) Pathapati Subba Reddy (Died) by Legal Representatives and Ors vs Special Deputy Collector (LA) (2024) 12 SCC 336
- (iv) Shivamma (Dead) by Lrs vs Karnataka Housing Board and Others 2025 SCC Online SC 1969.

11. In the light of submission made by both the Counsel in the matter, I have perused the record and case laws cited before me.

12. It is well settled position of law that while deciding the application for condonation of delay, the word 'sufficient cause' has to be interpreted and implemented by considering the facts of each case. The expression 'sufficient cause' implies the presence of legal and adequate reasons. If adequate and enough reasons are came on record, in that case the delay needs to be condoned. The other test while deciding the application for condonation of delay, is to verify the party, who seeks condonation must act *bona fide* and place on record all possible steps taken by him to approach to the Court without any unnecessary delays and most important fact that the rival party should not be caused prejudice or injustice in the matter. The law of limitation is a substantive law and has definite consequences on the right and obligation of the party to arise. This principles are required to be applied appropriately depending on the facts and circumstances of the given case. There is no straight jacket formula which can uniformly applied to all cases without Reference peculiar facts and circumstances of the given case.

13. While deciding the application for condonation of delay the broad principles laid down by the Hon'ble Supreme Court, in the case of *Esha Bhattacharjee vs. Managing Committee of Raghunathpur Nafar Academy and ors. (2013) 12 SCC 649*, particularly in paragraph 21 to 22.4 are relevant and normally applicable in the matter :

"21. From the aforesaid authorities the principles that can broadly be culled out are:

i) There should be a liberal, pragmatic, justice-oriented, non-pedantic approach while dealing with an application for condonation of delay, for the courts are not supposed to legalise injustice but are obliged to remove injustice.

ii) The terms “sufficient cause” should be understood in their proper spirit, philosophy and purpose regard being had to the fact that these terms are basically elastic and are to be applied in proper perspective to the obtaining fact- situation.

iii) Substantial justice being paramount and pivotal the technical considerations should not be given undue and uncalled for emphasis.

iv) No presumption can be attached to deliberate causation of delay but, gross negligence on the part of the counsel or litigant is to be taken note of.

v) Lack of bona fides imputable to a party seeking condonation of delay is a significant and relevant fact.

vi) It is to be kept in mind that adherence to strict proof should not affect public justice and cause public mischief because the courts are required to be vigilant so that in the ultimate eventuate there is no real failure of justice.

vii) The concept of liberal approach has to encapsulate the conception of reasonableness and it cannot be allowed a totally unfettered free play.

viii) There is a distinction between inordinate delay and a delay of short duration or few days, for to the former doctrine of prejudice is attracted whereas to the latter it may not be attracted. That apart, the first one warrants strict approach whereas the second calls for a liberal delineation.

ix) The conduct, behaviour and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the courts are required to weigh the scale of balance of justice in respect of both

parties and the said principle cannot be given a total go by in the name of liberal approach.

x) If the explanation offered is concocted or the grounds urged in the application are fanciful, the courts should be vigilant not to expose the other side unnecessarily to face such a litigation.

xi) It is to be borne in mind that no one gets away with fraud, misrepresentation or interpolation by taking recourse to the technicalities of law of limitation.

xii) The entire gamut of facts are to be carefully scrutinized and the approach should be based on the paradigm of judicial discretion which is founded on objective reasoning and not on individual perception.

xiii) The State or a public body or an entity representing a collective cause should be given some acceptable latitude.

16. To the aforesaid principles we may add some more guidelines taking note of the present day scenario. They are: -

a) An application for condonation of delay should be drafted with careful concern and not in a haphazard manner harbouring the notion that the courts are required to condone delay on the bedrock of the principle that adjudication of a lis on merits is seminal to justice dispensation system.

b) An application for condonation of delay should not be dealt with in a routine manner on the base of individual philosophy which is basically subjective.

c) Though no precise formula can be laid down regard being had to the concept of judicial discretion, yet a conscious effort for achieving consistency and collegiality of the adjudicatory system should be made as that is the ultimate institutional motto.

d) The increasing tendency to perceive delay as a non-serious matter and, hence, lackadaisical propensity can

be exhibited in a nonchalant manner requires to be curbed, of course, within legal parameters.”

14. Learned Counsel for the respondents has also relied upon the recent judgment of the Hon'ble Supreme Court in the case of ***Shivamma (dead) by Lrs vs. Karnataka Housing Board and ors. 2025 SCC OnLine SC 1969***, wherein the Hon'ble Supreme Court has drawn its conclusion particularly in paragraph 261 to 264 which read as under :

“ 261. Thus, for the reasons aforesaid, the impugned order of the High Court deserves to be set aside. Before we proceed to close this judgment, we deem it appropriate to make it abundantly clear that administrative lethargy and laxity can never stand as a sufficient ground for condonation of delay, and we want to convey an emphatic message to all the High Courts that delays shall not be condoned on frivolous and superficial grounds, until a proper case of sufficient cause is made out, wherein the State-machinery is able to establish that it acted with bona fides and remained vigilant all throughout. Procedure is a handmaid to justice, as is famously said. But courts, and more particularly the constitutional courts, ought not to obviate the procedure for a litigating State agency, who also equally suffer the bars of limitation from pursuing litigations due to its own lackadaisical attitude.

262. The High Courts ought not give a legitimizing effect to such callous attitude of State authorities or its instrumentalities, and should remain extra cautious, if the party seeking condonation of delay is a State-authority. They should not become surrogates for State laxity and lethargy. The constitutional courts ought to be cognizant of the apathy and pangs of a private litigant. Litigants cannot be placed in situations of perpetual litigations, wherein the fruits of their decrees or favourable orders are frustrated at later stages. We are at pains to reiterate this everlasting trend, and put all the High Courts to notice, not to reopen matters with inordinate delay, until sufficient cause exists, as by doing

so the courts only add insult to the injury, more particularly in appeals under [Section 100](#) of the CPC, wherein its jurisdiction is already limited to questions of law.

263. Limitation periods are prescribed to maintain a sweeping scope for the lis to attain for finality. More than the importance of judicial time, what worries us is the plight of a litigant with limited means, who is to contest against an enormous State, and its elaborate and never-exhausting paraphernalia. Such litigations deserve to be disposed of at the very threshold, because, say if a party litigating against the State, for whatever reason, is unable to contest the condonation of delay in appeal, unlike the present case, it reopens the lis for another round of litigation, and leaves such litigant listless yet again. As courts of conscience, it is our obligation that we assure that a litigant is not sent from pillar to post to seek justice.

264. No litigant should be permitted to be so lethargic and apathetic, much less be permitted by the courts to misuse the process of law.”

15. In light of the above settled principles of law laid down by the Hon’ble Supreme Court, it will be expedient to note that in the present matter nature of proceeding in which the condonation is sought, is arising out of public Trust and delay is caused to challenge the framing of scheme which according to appellant was not framed in public interest.

16. Under the provisions of Maharashtra Public Trust Act the Assistant Charity Commissioner is permitted to exercise the powers to frame the Scheme for the benefit of the Trust. Therefore, keeping in mind that Trust is to be run for the benefit of public, therefore, if someone has any objection in a public Trust, like in the present case, particularly, by the legal

representative of donor who alleged that by framing of the Scheme the object of the Trust is diverted, is required to be considered by adopting liberal approach in the matter.

17. It is correct on the part of the respondents by relying upon the judgment of the Hon'ble Supreme Court in the case of *Pathapati Subba Reddy (died) by LR's and ors. vs. Special Deputy Collector (2024) 12 SCC 336* that while deciding the application for condonation of delay, merits of the case cannot be considered. At the same time, Hon'ble Supreme Court in the case of *Esha Bhattacharjee (supra)* has held that substantial justice being a paramount and pivotal and the technical consideration should not be given undue and uncalled for emphasis. In my opinion substantial justice is paramount consideration and therefore considering the nature of proceeding which are under challenge should be one of consideration while exercising the powers in the matter.

18. It is pertinent to note that at the time of framing the Scheme only one trustee of the Trust was in existence. The present body of the Trust is elected in terms of the Scheme framed by the Assistant Charity Commissioner. Admittedly, Scheme was framed with an intention for the proper administration of the Trust and if it is so then no one should shy to re-verify the merits of the Scheme, particularly when the scheme was framed without any objection of public at large. In that case no prejudice is likely to be caused to any of the party of proceeding. The bare perusal of provision of

Maharashtra Public Trusts Act itself provided the mechanism for same.

19. Perusal of Section 50A(3) states that at any time the Assistant or Deputy Charity Commissioner can modify the scheme framed by him under sub-section (1) or (2). Hence, the Scheme which is framed is always subject to the modification if the authority is satisfied that the modification is required in the matter.

20. Furthermore, looking to the provisions of the Maharashtra Public Trusts Act, which were brought in operation to regulate and provide better administration of public religious and charitable Trust in the State of Maharashtra, the Authorities are always subject to correction. Hence, according to me, in the cases of public Trust, the decision under Section 50A whereby the Scheme is framed, should always be permitted to be tested on the suggestions and corrections of the objector. Hence, I am of the view that the appellant being interested person, was right in moving the application to challenge the Scheme under Section 72 of the Maharashtra Public Trusts Act.

21. In the light of the above findings, the issue is now to be dealt with is in respect of condonation of delay. In the present matter, the Court below has rightly recorded the legal position which was operating the field at the relevant time. However, while applying the principles laid down by this Court it was necessary for Authority to decide the application in the light of the object of the Maharashtra Public Trusts Act. I am of the view that the

proceedings being arising out to the Maharashtra Public Trust Act, the Court should be liberal to condone the delay particularly when any interested person want to test the order passed by the Authority which according to him, is not beneficial to the Public Trust.

22. Apart from the above, in the present matter, the case of the appellant is very specific. He stated that though the public notice was given in daily news paper Mathrubhumi, he did not come across to the same. In today life, one has to admit the fact that print media has taken a back seat to electronic and social media. It is not expected from every individual to go through the public notice issued in newspaper. It may happen that person may not gone through any individual news paper, wherein public notice has been issued. Therefore, now the time has reached that the authority should take care to publish the public notice in other available manner. Therefore, I am of the opinion that there is reason to believe that he did not come across the daily news paper Matrubhumi and not aware about the Scheme framed by the Assistant Charity Commissioner.

23. It is further pertinent to note that it way easy for appellant to state in his application that he came to know about the framing of the Scheme in the year 2016 itself and thereafter, immediately filed the application to challenge the same. But record shows that he came with the submission that he got knowledge about the Scheme on 01.09.2015. But due to medical exigency of his son, he could not take steps to challenge the same.

He has placed on record the medical documents of his son, who was operated twice due to brain injury and after recovery of his son, took steps to file proceeding. In this circumstances, the submission of the appellant that he has received the certified copy on 25.08.2016 and immediately thereafter filed the application cannot be disbelieved in the facts and circumstances of the matter.

24. Perusal of the impugned order passed by the District Judge, particularly in paragraph 17, he also agreed to the fact that considering the documentary evidence of illness of son of appellant, he is willing to condone the delay of period from 01.09.2015 to 25.08.2016 and also recorded that same was sufficient reason for not preferring the application within time by him.

25. One more thing needs to be consider that if the son of a person suffered from brain injury and he was gone through the major surgery, it is not expected from such person that immediately after his son was recovered he should have filed the proceedings that too in respect of the Trust matter. Therefore, looking to this factual position, I am of the view that the delay caused in filing of the appeal, needs liberal consideration in the matter.

26. One more aspect, according to me in the present matter is that by condoning the delay no prejudice is likely to be caused to the trustees. It is admitted fact that the Scheme has already been framed and present

respondents are carrying out the administration of the Trust under the Scheme. As per the submission made at bar, the only concern of the appellant is that as his grandfather had donated the land for construction of library, the said land should not be misused by the trustees contrary to the object and purpose for which it was donated. He has categorically stated that, he is not interested to get back the property from the trustees. But since last many years as there is no development on the count that trustees are not getting fund to construct the library, he is intending to pursue his cause in the matter to modify the Scheme as permissible under the provisions of Section 50A. Hence the entire efforts of the appellant is for the benefit of the Trust. Therefore such person cannot be deprived to pursue his legal cause on the technical reason of delay.

27. In the above facts and circumstances one thing is clear that appellant being an Advocate by a profession and well educated person, should have diligent to prosecute his cause. Learned Court below is correct in saying that the appellant is not a rustic illiterate villager but a senior legal practitioner. Being a interested person, he ought to have vigilant in the matter. Hence, according to me, to meet the ends of justice, in such circumstances delay can be condoned by imposing the costs on the appellant. Hence, I proceed to pass the following order :

- (a) The First Appeal is allowed.
- (b) Impugned order dated 18.04.2017 passed by the District Judge, Akot, District Akola in M.J.C. No.25 of 2016 is hereby quashed and

set aside.

- (c) The M.J.C. No.25 of 2016 filed by the appellant before the learned District Judge, Akot for condonation of delay is hereby allowed. Delay stands condoned subject to costs of Rs.20,000/- to be paid by the appellant in the account of respondent Trust namely Sarvajanik Lokmanya Vachanalaya Telhara, within a period of 15 days from the date of this order.
- (d) After deposit of the said amount and production of receipt of the same, the application under Section 72 be registered and learned District Judge, Akot is directed to decide the same on its own merits without influence of the findings recorded by this Court in the matter.

28. The appeal stands disposed of accordingly.

(PRAVIN S. PATIL, J.)

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