



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

CIVIL APPLICATION (CAC) NO.77 OF 2024

IN

CIVIL REVISION APPLICATION ST. NO.8315 OF 2024

Suresh Indarchand Lunawat Vs. Chandrakumar Indarchand Lunavat and ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. R.M.Bhangde, counsel for the applicant..
Mr. H.R.Gadhia, counsel for non-applicants.

CORAM : MRS. VRUSHALI V. JOSHI, J.
DATE : 16/07/2025.

1. This is an application filed by the applicant for condonation of delay of 300 days in preferring the instant Civil Revision Application.

2. The applicant has filed the application under Order VII Rule 11 of the Civil Procedure Code. The said application was rejected and therefore, the applicant intends to file the Civil Revision Application. Due to medical reasons, there is delay.

3. The learned counsel appearing for the applicant has stated that the applicant was suffering from various ailments. The medical certificate is filed on record. As per the said medical certificate, he was advised not to do any activity and therefore, he could not contact his Advocate and therefore, there is delay.

4. The applicant has relied on the judgment of

the Hon'ble Apex Court, in the case of ***Ummer Vs. Pottengal Subida and ors*** reported in ***(2018) 15 SCC 127***, wherein in paragraph No.11, the Hon'ble Apex Court has observed about the sufficient cause in delay as under:-

11. ***“We have perused the contents of the application and the affidavit filed by the appellant before the High Court seeking condonation of delay in filing the appeal. The cause pleaded by the appellant therein was relating to his prolonged illness during the period in question. The appellant also filed medical documents to support the factum of his illness during the relevant time”.***

5. The medical ground is sufficiently explained by the applicant therefore, prayed to condone the delay.

6. The learned counsel appearing for the non-applicant opposed the application stating that the application was decided on 13.01.2023 and the non-applicant has filed his reply to the temporary injunction application on 17.04.2023. He could have appeared before the Trial Court and have filed the application within limitation. The sufficient cause is not there. The learned counsel appearing for the non-applicant has relied on the judgment of the Hon'ble Apex Court, wherein the Hon'ble Apex Court has mentioned about the equitable relief.

7. The Hon'ble Apex Court in the case of ***Pathapati Subba Reddy (died) by LRs. and ors.Vs. Special Deputy Collector*** reported in ***2024 SCC Online SC 513*** has given guidelines, while considering the delay. It has

also been observed by the Hon'ble Apex Court in the case of *Mool Chandra Vs. Union of India and anr.* reported in *2025 (1) SCC 625* about the sufficient cause.

8. Considering the observations made in all these judgments, the learned counsel appearing for the non-applicant has stated that there is no sufficient cause. Hence, he has prayed to reject the application for condonation of delay.

9. Heard the learned counsel appearing for the respective parties.

10. The delay caused in filing the Civil Revision Application is because of the medical ground. The applicant has filed the medical certificate issued by Dr. Kamlesh Kothari about his ill-health.

11. Though, the non applicant has stated that the general status of his health is mentioned in the medical certificate and due to said ailments, nobody can be confined to bed. Considering that, as the applicant was suffering from Type- 2 diabetes and doctor advised him not to move, this cause is sufficient to condone the delay.

12. Reliance is placed on the judgment of Apex Court in the case of *Ummer Vs. Pottengal Subida and ors supra*, in paragraph No.14, it is observed as under:-

14. "In the light of the aforementioned undisputed facts, in our opinion, the High Court should have taken liberal view in the matter and held the cause shown by the appellant as "sufficient

cause" within the meaning of Section 5 of the Limitation Act and accordingly should have condoned the delay in filing the appeal. One cannot now dispute the legal proposition that the earlier view of this Court that the appellant was required to explain the delay of each day till the date of filing the appeal has since been diluted by the later decisions of this Court and is, therefore, held as no longer good law".

13. The learned counsel appearing for the non-applicant has relied on the judgment in the case of *Mool Chandra Vs. Union of India and anr. Supra*, in paragraph No.20, it is observed as under:-

20. *"Be that as it may. On account of liberty having been granted to the appellant to pursue his remedy in accordance with law, yet another O.A. No.2066 of 2020 along with an application for condonation of delay came to be filed. The delay was not condoned by the Tribunal on the ground that it was filed more than one year after the impugned order came to be passed. No litigant stands to benefit in approaching the courts belatedly. It is not the length of delay that would be required to be considered while examining the plea for condonation of delay, it is the cause for delay which has been propounded will have to be examined. If the cause for delay would fall within the four corners of "sufficient cause", irrespective of the length of delay same deserves to be condoned. However, if the cause shown is insufficient, irrespective of the period of delay, same would not be condoned".*

14. The learned counsel for the applicant has pointed out that the Hon'ble Apex Court has condoned the delay in the said application in the case of ***Mool Chandra Vs. Union of India and anr. supra*** .

15. In the case of ***Pathapati Subba Reddy (died) by LRs. and ors.Vs. Special Deputy Collector***, there is inordinate delay. Hence, considering the observations made by the Hon'ble Apex Court as there is sufficient cause to condone the delay, the civil application is allowed and the delay of 300 days is condoned, subject to payment of costs of Rs.3000/-(rupees three thousand only) to be paid to the non-applicant.

16. Civil applications stands disposed of.

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Stand over to 18.07.2025.

JUDGE