



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR
MISC. CIVIL APPLICATION (REVIEW) NO.812 OF 2025
IN
SECOND APPEAL NO.283 OF 2025

Harish S/o Shivdayal Massand (being deceased) through Lrs **Vs.** Gospel
for Asia, through its President and Another

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. S.P. Kshirsagar, Advocate for the Applicants/Appellants.

CORAM: ROHIT W. JOSHI, J.

DATED : 01st DECEMBER, 2025

1. The present application is filed seeking Review of the order dated 26.06.2025 passed by this Court dismissing the Second Appeal No.283/2025. The appellant had filed a First Appeal beyond the prescribed period of limitation. An application was made seeking condonation of delay in filing the said Second Appeal.

2. The Learned First Appellate Court had rejected the application for condonation of delay disbelieving the explanation offered by the appellant that they were not aware about the ongoing litigation, which was being looked after by their father alone. Learned First Appellate Court recorded certain admissions in the cross examination of applicant No.1, where he had admitted that he was attending the Court with his father (original plaintiff). Admissions have also come in the cross-examination of applicant No.1 with respect to his signatures on measurement report with respect to suit property in the year 2009. The applicant No.1 also admitted his signatures in certain proceedings in relation

to the suit property which were pending before the Sub-Divisional Officer. In view of above, application for condonation of delay was rejected by the Learned First Appellate Court.

3. This Court has dismissed the second appeal finding that the reasons recorded by the Learned First Appellate Court were just and proper and no substantial question of law arose for consideration with respect to the manner in which the application for condonation of delay was decided and the reasons recorded by the Learned First Appellate Court for rejecting the application for condonation of delay.

4. Mr. S.P. Kshirsagar, learned Advocate for the appellants contends that while dealing with the application for condonation of delay in filing the first appeal, the Court must adopt a liberal approach so as to decide the appeal on merits rather than dismissing the same on the ground that it is filed beyond the period of limitation.

5. He places reliance on the following judgments :-

- i) **AIR 1998 SUPREME COURT 3222**
N. Balakrishnan Vs. M. Krishnamurthy;
- ii) **(2023) 10 Supreme Court Cases 531** Sheo Raj Singh (Deceased) through legal representatives and Others Vs. Union of India and Another;
- iii) **1992(2) Mh.L.J. 272** Sonerao Sadashivrao Patil and Another Vs. Godawaribai W/o. Laxmansingh Gahirewar and Others.

6. Learned Advocate for the appellants has also canvassed certain arguments with respect to merits of the claim in the civil suit.

7. I am afraid while dealing with the application for condonation of delay or even a second appeal arising out of an order rejecting the application for condonation of delay in filing the First Appeal, merits of the dispute in the civil suit cannot be looked into as has been held by the Hon'ble Supreme Court in the matter of *State of Jharkhand Vs. Ashok Kumar Chokhani reported in (2009) 2 SCC 667* and *Pathapati Subba Reddy (Died) by legal representatives and Others Vs. Special Deputy Collector (LA) reported in (2024) 12 SCC 336*.

8. In that view of the matter, no case for review is made out therefore, application for review stands rejected.

(ROHIT W. JOSHI, J.)

Privel