

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

CIVIL APPLICATION (F) NO. 1539 OF 2025

IN

FIRST APPEAL (STAMP) NO. 7487 OF 2025

(Laxmi Electrical Service vs. Kanchan Ashok Avachar and others)

Office Notes, Office Memorandum of Coram,
appearances, Court's orders or the directions,
and Registrar's orders.

Court's or Judge's order

Mr. S.B.Mohta, Advocate for the applicant/appellant.
Mr. Sagar Katkar, Advocate for respondent Nos. 1 and 2.

CORAM : ABHAY J. MANTRI, J.

DATE : JULY 31, 2025

- 1) The appellant has filed this application to condone the delay of 1051 days caused in filing the appeal.
- 2) Heard learned counsel for both parties at length and perused the record, as well as judgments relied upon by the parties.
- 3) The moot question that arises before me is '*whether the applicant has made out the "sufficient cause" to condone the delay in filing the appeal*'?
- 4) The learned counsel for the applicant/appellant mainly emphasised that the applicant had filed a writ petition before this Court on 06/05/2022, which was disposed of on 06/12/2024 as withdrawn with liberty to file appropriate proceeding and therefore, the delay has been caused in filing the appeal. When the query was put to the learned counsel for the applicant, what reasons are given for non-filing the proceedings or writ petition for challenging the impugned order dated 09.08.2019 from 09/08/2019 to 06/05/2022, however, the

learned counsel for the applicant drew my attention to para 4 of the application, which reads thus as under :-

“4. The appellant is a layman having no knowledge about the niceties and complexities of law and its procedure. However, in the year 2022, the appellant was advised to challenge the impugned judgment dated 09/08/2019 passed by the Labour Court, Akola, before this Hon’ble Court by way of Writ Petition and accordingly, the appellant preferred Writ Petition on 06.05.22 which came to be registered as Writ Petition No.3238/2022.”

5) He further canvassed that the applicant is a layman and not being conversant with the procedures of law, which has caused a delay in filing the appeal.

6) To buttress his submissions, he relied upon the judgment in **Balbir Singh vs. Bogh Singh, 1974 AIR (SC) 650** and pointed out para 2 of the said judgment, which deals with the filing of the proceedings before the wrong forum and the period consumed in pursuing the appeal was excluded. However, in the case at hand, the appellant failed to demonstrate that the delay that occurred from 09/08/2019, i.e. passing of the order, till filing of the writ petition on 06/05/2022, had ‘sufficient cause’ to condone the delay. It is not the case that the applicant immediately filed the proceedings before the wrong forum after passing the order, but the applicant failed to file any proceeding from 09.08.2019 to 06.05.2022, nor did the applicant explain the delay caused during this period. Apart from this, it cannot be said that pursuing the remedy in an improper and wrong forum was a bona fide mistake of the applicant, as the advocate practising in the High Court had filed the said writ petition, who is very well conversant with the provisions of law.

7) On perusal of the said para, it does not indicate that "*sufficient cause*" is averred in the application for non-filing of the proceedings till 06/05/2022. The applicant is a layman, and having no knowledge of the law and its procedure, is not a sufficient cause to condone the delay, as the applicant is an employer and running the Laxmi Electric Services; in such circumstances, it cannot be said that the reason stated by the applicant can be termed as a sufficient cause. In the absence of a sufficient cause and reasonable explanation, the court has no power to condone the inordinate delay on equitable grounds or in the name of advancing substantial justice. As against it, it is apparent that the averments made in para 4 are insufficient, inadequate, vague, and unpalatable and far away from the requirements of the provisions of section 5 of the Limitation Act. It does not indicate any sufficient cause for non-filing the proceedings against the order dated 09/08/2019 within time. On the contrary, it appears that the appellant did not exercise due diligence in pursuing the matter but was negligent in prosecuting the matter.

8) No doubt, generally, the courts have adopted a very liberal approach in construing the phrase '*sufficient cause*' used in Section 5 of the Limitation Act in order to condone the delay to enable the courts to do substantial justice and to apply law in a meaningful manner, which subserves the ends of justice. Similarly, it is necessary in the interest of justice that the cause of substantial justice should be allowed to prevail over technical considerations, and if the delay is not deliberate, it ought to be condoned. *At the same time, notwithstanding the above, howsoever, 'liberal approach', 'justice-oriented approach' and cause for the advancement of 'substantial justice' cannot be*

employed to defeat the law of limitation so as to allow stale matters or dead matters to be revived and re-opened by taking aid of Section 5 of the Limitation Act.

9) It must always be borne in mind that while construing 'sufficient cause' in deciding an application under Section 5 of the Act, that on the expiry of the period of limitation prescribed for filing an appeal, substantive right in favour of the decree-holder accrues and their rights ought not to be lightly disturbed. The decree-holder treats the judgment and award as binding with the lapse of time and may proceed on such assumption, creating new rights. As such, the observations made in the above-cited judgment are hardly of any assistance to the appellant in support of his case.

10) It is pertinent to note that the party should approach the Court with clean hands and explain sufficient cause for causing the delay, proving that the delay on its part was not deliberate or intentional. Then, the party would be entitled to condone the delay. However, in the case at hand, the applicant failed to give any sufficient cause to condone the delay. It does appear that the delay was deliberate; moreover, it seems that by filing the writ petition, the applicant/ appellant was trying to deprive the respondents/claimants of getting their claim, which was granted in their favour by the learned Labour Court.

11) It is further evident from the record that on 09/08/2019, an award was passed, and for approximately 2 years and 9 months, the applicant/appellant has neither complied with the said order nor challenged it before the appropriate forum in time. On the contrary, it appears that after

the expiry of the period of limitation, on 06/05/2022, he intentionally preferred a writ petition before this Court, knowing that the writ petition was not maintainable against the order of the learned Tribunal to challenge the said order. It cannot be presumed or believed that the Advocate practising in the High Court is not aware of the legal provisions to prefer an appeal against the said order. On the contrary, it appears that the Advocate knew that the delay had occurred in filing the appeal; therefore, he had deliberately chosen the remedy of the writ petition before this Court, and in the writ petition on 10/10/2022, he obtained a stay of the impugned judgment and order. That stay continued till the withdrawal of the said writ petition on 03/04/2024. The appellant's conduct itself indicates that the appellant had deliberately filed a writ petition against the impugned order to deprive the respondents of their rights/claim.

12) It is to be noted that the husband of the respondent No.1 and father of respondents No.2 and 3 died in an untoward incident/accident and learned Labour Court partly allowed the application filed by them and awarded the compensation of Rs.6,35,400/-, however, intending to deprive the respondents /claimants or defeat their claim, the appellant has filed writ petition and subsequently filed this appeal.

13) Notably, the object and intent of the legislation are to confer benefits on the workmen under this Act. Therefore, in my view, for the act of the applicant/appellant and intention to deprive the claimants of getting their relief, he has filed the present proceedings; therefore, heavy costs need to be imposed while dismissing the appeal.

14) Having considered the above discussion, it reveals that the applicant fails to make out sufficient cause for not filing the appeal in time. On the contrary, it appears that the applicant was negligent and did not exercise due diligence in pursuing the matter, but deliberately filed proceedings before the wrong forum to deprive the rights of the claimants. Thus, it appears that the applicant has failed to make out sufficient cause for non-filing of the appeal within time, and a huge delay has occurred in filing the proceedings. Hence, the applicant is not entitled to condone the delay. Therefore, I answer the question in the negative. *As such, the application being bereft of merit, stands dismissed with costs of Rs. 10,000/- to be paid to the claimants/ respondents within three weeks from today.*

15) In view of above, the Commissioner, under Workmen's Compensation Act and Judge, Labour Court at Akola, is directed to transmit the said amount in the bank accounts of the respective respondents/claimants, as per the judgment and order dated 09/08/2019 within four weeks from the receipt of this order, on they furnishing their bank accounts details.

(ABHAY J. MANTRI, J.)