



2025:DHC:3845



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Reserved on: 29.11.2024**Pronounced on: 16.05.2025**+ **CM(M) 3943/2024 & CM APPL.69748/2024 (stay)****SUJATA JAIN & ANR. THROUGH ATTORNEY HOLDER
NIKESH JAIN**

.....Petitioners

Through: Mr. Anuj Jain, Advocate.

versus

ANIL KUMAR JAIN & ORS.

.....Respondents

Through: Mr. Dinesh Kumar Gupta,
Mr. Vidit Gupta, Advocates for R-1
and LR's of R-2.**CORAM:-****HON'BLE MR. JUSTICE RAVINDER DUDEJA****JUDGMENT****RAVINDER DUDEJA, J.**

1. The present petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 13.09.2024 passed by learned District Judge-04, Shahdara, Karkardooma Courts, Delhi in Civil Suit No. 1787/2026 titled as "*Anil Kumar Jain & Anr. Vs. J. P. Gupta (since deceased through LR's)*" whereby the learned trial court allowed the application under Order XXII Rule 3 and 9 r/w application under Section 151 CPC and Section 5 of Limitation Act



thereby condoning the delay of 3023 days and permitted the substitution of legal heirs of plaintiff no.1 (before the trial court), Smt. Usha Rani Jain (since deceased).

2. The petitioners being the legal heirs of deceased J.P. Gupta have challenged the impugned order primarily on the ground that it has been passed without appreciation of law and facts and that such inordinate delay ought not to have been condoned in the absence of any bonafide and sufficient cause.

3. The background facts leading to the filing of the present petition as essential for the disposal of the present petition are that an original suit, CS(OS) 2527/1998 was instituted before this Court by Sh. Anil Kumar Jain (Plaintiff No.1) and his sister-in-law Smt. Usha Rani Jain (Plaintiff No.2) seeking performance of an agreement to sell dated 07.12.1994, allegedly executed by the defendant, Sh. J.P. Gupta, in favour of the plaintiffs. A parallel suit was also filed by Sh. J.P. Gupta in favour of the plaintiffs bearing no. 397/1998 (later re-numbered as CS(OS) No. 1146/2006 seeking declaration of cancellation of the said agreement, possession and mesne profits. Both suits, involving common parties and subject matter were consolidated by order dated 11.10.2006.

4. The suit instituted by J.P. Gupta was directed to be treated as the leading suit for the purpose of evidence with the burden to begin, laid on the plaintiff therein.



5. After granting several opportunities, the right of Sh. J.P.Gupta to lead the evidence was closed on 22.07.2008. The defendants in that suit thereafter examined DW-1 Sh. Anil Kumar Jain on 10.01.2011. Unfortunately, Sh. J.P.Gupta passed away on 19.03.2011. The applications to bring his legal heirs on record were initially allowed vide order dated 08.08.2011. However, this Court vide order dated 06.08.2012 found that the applications were vitiated due to fraudulent signatures and lack of proper vakalatnama and consequently recalled the earlier substitution orders. CS(OS) 1146/2006 was then dismissed under Order XVII Rule 3 CPC due to non-prosecution.

6. Proceedings in the suit filed by Sh. Anil Kumar Jain (CS(OS) 2527/1998, (later re-numbered as 1787/2016) continued. Importantly, the evidence of plaintiff no.1 had already been closed on 12.01.2012. It was only on 17.11.2023 after a delay of more than 8.5 years that an application was filed by plaintiff no.1 under Order 22 Rule 3 and 9 CPC along with an application under Section 5 of Limitation Act, seeking substitution of legal heirs of deceased plaintiff no.2, Smt. Usha Rani Jain, who had passed away on 14.10.2015. The cause for the delay was explained as being the result of an erroneous legal understanding and mutual family arrangement. It was stated that the deceased plaintiff no.2 had around the year 2000 orally nominated plaintiff no.1 to pursue the case and agreed that any relief would accrue solely to him, thereby obviating the need for substitution.



7. The petitioners vehemently opposed the applications before the trial court. It was contended that the explanation offered was perfunctory, vague and unsupported by any material. The claim of oral nomination or mutual understanding was dismissed as legally inconsequential, especially in the context of substitution mandated under Order XXII. The petitioners also pointed out that even the respondent admits in his own pleadings that no right to sue survives in favour of the legal heirs of plaintiff no.2 which made the substitution application infructuous. They further contended that if such inordinate delay is condoned without sufficient cause, it would defeat the principles of finality and fair adjudication. More so, it was emphasized that the conduct of plaintiff no.1 throughout was casual and negligent marked by repeated delays and misleading representations.

8. The respondents on the other hand argued that the delay was unintentional and not occasioned by any malafide intent. They relied upon the Mutual Nomination Arrangement and the fact that plaintiff no.2 was never examined as a witness. They contend that from 2012 to 2023, there was no substantial progress in the suit, partly because the original records of the parallel case (CS(OS) 1146/2006) remained in the High Court until 2023. This they argued, resulted in an overall stagnation of the proceedings. Learned counsel for respondent no.1 further submits that the length of delay is of no consequence if the explanation is reasonable. He further submits that the prayers for setting aside the abatement and dismissal consequent upon the



abatement have to be considered liberally. It is also argued that while pursuing petition under Article 227 of the Constitution of India, the power of this Court is only supervisory in nature and it shall not act as a court of appeal and if the trial court has exercised discretionary right, the same cannot be interfered with by this Court under supervisory power. They further submitted that no prejudice would be caused to the petitioners if the legal heirs were brought on record at this stage, as the suit could then proceed to final adjudication on merits.

9. Respondents have strongly relied upon **N. Balakrishnan Vs. M. Krishnamurthy, (1998) 7 SCC 123, Ram Nath Sao Vs. Govardhan Sao (2002) 3 SCC 195** and **Sardar Amarjit Singh Kalra vs. Pramod Gupta (2003) 3 SCC 272** to support their plea for liberal interpretation of “sufficient cause”.

10. Court has considered the rival submissions made by the learned counsels and has perused the material on record. Before discussing the merits of the submissions, it would be apposite to refer to Order 22 Rule 9 of the Code of Civil Procedure [**“Code”**], which provides as under:-

“(9) Effect of abatement or dismissal. (1) Where a suit abates or is dismissed under this Order no fresh suit shall be brought on the same cause of action.

(2) The plaintiff or the person claiming to be the legal representative of a deceased plaintiff or the assignee or the receiver in the case of an insolvent plaintiff may apply for an order to set aside the abatement or dismissal; and if it is proved that he was prevented by any sufficient cause from continuing the suit, the Court shall set aside the abatement or dismissal upon such terms as to costs or otherwise as it thinks fit.



(3) The provisions of Section 5 of the Indian Limitation Act shall apply to an application under sub-rule (2)”.

11. The application to set aside the abatement is maintainable at the instance of any claimant or legal representative of the deceased plaintiff. The order of abatement under Order 22 can be passed either under Order 22, Rule 3 if within the time limited by law no application is made to substitute the legal representative of the deceased plaintiff as required by sub-rule (1) of Rule (3) Order 22. Under sub-rule (3) of Rule 4 of Order 22, where within the time limited by law, no application is made to substitute the legal representative of the deceased defendant, as required by sub-rule (1) of Rule 4 of Order 22.

12. Order 22 Rule 3 (2) CPC provides limitation prescribed under Article 120 of the Limitation Act, 1963, i.e. 90 days, thereafter under Article 121 of the Limitation Act, 60 days for setting aside the abatement. If no such application is filed within the stipulated period so prescribed, Section 5 of the Limitation Act may come into play for condonation of delay.

13. The abatement results in denial of hearing on the merits of the case, the provision of abatement has to be construed strictly. On the other hand, the prayer for setting aside an abatement consequent upon an abatement, has to be considered liberally.

14. Learned counsel for the respondents, while referring to various judgments, has submitted that a liberal approach is warranted while considering the application for condonation of delay in filing an application for setting aside the abatement. There is no dispute with



regard to the said proposition. The law in this regard is well settled. The Courts have to adopt a justice oriented approach. Ordinarily, a litigant ought not to be denied an opportunity of having the *lis* determined on merits, unless it is a case of gross negligence or deliberate inaction, which disentitles him from seeking the indulgence of the Court.

15. Condonation of delay is a matter of discretion of the Court. Section 5 of the Limitation Act does not say that such discretion can be exercised only if the delay is within a certain limit. The acceptability of explanation is the only criterion and not the length of the delay. The rules of limitation are not meant to destroy the rights of the parties. Rather, they are meant to ensure that the parties do not resort to dilatory tactics and seek their remedy promptly. The object of providing legal remedies is to repair the damage caused by reason of delay. The law of limitation provides life span for the legal remedy for the redressal of the legal injury so suffered.

16. What should be the approach of the Courts while considering the application under Order 5 of the Limitation Act, 1963, has been discussed in several decisions. It may be sufficient to refer some of them. The Hon'ble Supreme Court, in the case of **Esha Bhattacharjee vs. Managing Committee of Raghunathpur Nafar Academy and Ors (2013) 12 SCC 649**, after referring to the earlier decisions laid down the following principles is extracted below:-

“21.1 (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.

21.2 (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.

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

21.4 (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.

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

21.6 (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.

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

21.8 (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.

21.9 (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.

21.10 (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.

21.11 (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.

21.12 (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.



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

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

22.1 (a) An application for condonation of delay should be drafted with careful concern and not in a half hazard 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.

22.2 (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.

22.3 (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.

22.4 (d) The increasing tendency to perceive delay as a non-serious matter and, hence, lackadaisical propensity can be exhibited in a non-challant manner requires to be curbed, of course, within legal parameters.”

17. No doubt, in view of the principles laid down by the Hon’ble Supreme Court in **Esha Bhattacharjee** (*supra*), there should be a liberal, pragmatic, justice oriented and non-pedantic approach. Nevertheless, the application for condonation of delay is not to be dealt in a routine manner. In the case of **Ather Ali and Anr Vs. Mohd. Shafi, (Deceased) Through AR Mohd. Akbar 2024 SCC Online Del. 7495**, the Court observed thus:-

“6. The undisputed propositions of law, as culled out of various judicial precedents are as follows. The condonation of delay cannot be a matter of course and the same is a matter of discretion of the court to be exercised in a judicious manner. Unless the explanation furnished for the delay is wholly unacceptable or if no explanation whatsoever is offered or if the delay is inordinate and third party rights had become embedded during the interregnum, courts should lean in favour of condonation. Not the length of delay but the credibility of the explanation offered is the relevant factor where



the delay is not inordinate. The expression "sufficient cause" used in Section 5 of the Limitation Act must receive liberal construction so as to advance substantial justice when no negligence or inaction or want of bonafides is imputable to a party. The sufficiency or otherwise of the cause set up by the applicant in such cases has to be tested by examining as to whether the applicant was prevented from filing the appeal within time by factors beyond his control.

6.1 In the case of Ramlal vs Rewa Coalfields Ltd., AIR 1962 SC 361, the Hon'ble Supreme Court of India observed thus :

"7. In construing Section 5(of the Limitation Act), it is relevant to bear in mind two important considerations. The first consideration that the expiration of the period of limitation prescribed for making an appeal gives rise to a right in favour of the decree holder to treat the decree as binding between the parties. In other words, when the period of limitation prescribed has expired, the decree holder has obtained a benefit under the law of limitation to treat the decree as beyond challenge and this legal right which has accrued to the decree holder by the lapse of time should not be light heartedly disturbed. The other consideration which cannot be ignored is that if sufficient cause for excusing delay is shown discretion is given to the court to condone delay and admit the appeal. This discretion has been deliberately conferred upon the court in order that judicial power and discretion in that behalf should be exercised to advance substantial justice."

6.2 In the case of Finolux Auto Pvt. Ltd. Vs Finolex Cables Ltd., 136(2007) DLT 585(DB), a Division Bench of this Court held thus:

"6. In this regard, we may refer to a decision of the Supreme Court in P.K. Ramachandran vs State of Kerala, IV(1997) CLT 95 (SC). In the said decision, the Supreme Court has held that unless and until a reasonable or satisfactory explanation is given, the inordinate delay should not be condoned. In para 6 of the judgment, the Supreme Court has laid down in the following manner :

"Law of Limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes and the Courts have no power to extend the period of limitation on equitable grounds.



The discretion exercised by the High Court was, thus, neither proper nor judicious. The order condoning the delay cannot be sustained. This appeal, therefore, succeeds and the impugned order is set aside.

Consequently, the application for condonation of delay filed in the High Court would stand rejected and the Miscellaneous First Appeal shall stand dismissed as barred by time. No costs."

6.3 In the case of *Pundlik Jalam Patil (dead) by LRs vs Executive Engineer Jalgaon Medium Project*, (2008) 17 SCC 448, the Hon'ble Supreme Court of India held that basically the laws of limitation are founded on public policy and the courts have expressed atleast three different reasons supporting the existence of statutes of limitation, namely i) that long dormant claims have more of cruelty than justice in them, ii) that a defendant might have lost the evidence to dispute the stated claim, and (iii) that persons with good causes of action should pursue them with reasonable diligence. It was observed that the statutes of limitation are often called as statutes of peace in so far as an unlimited and perpetual threat of limitation creates insecurity and uncertainty which are essential for public order.

6.4 In the case of *Lanka Venkateshwarlu vs State of Andhra Pradesh*, (2011) 4 SCC 363, the Hon'ble Supreme Court of India observed thus:

"19. We have considered the submissions made by the learned counsel. At the outset, it needs to be stated that generally speaking, the courts in this country including this court adopt a liberal approach in considering the application for condonation of delay on the ground of sufficient cause under Section 5 of the Limitation Act".

The concepts of "liberal approach" and "reasonableness" in the exercise of discretion by the courts in condoning delay were considered by the Hon'ble Supreme Court of India in the case of *Balwant Singh vs Jagdish Singh*, (2010) 8 SCC 685, holding thus :

"25. We may state that even if the term "sufficient cause" has to receive liberal construction, it must squarely fall within the concept of reasonable time and proper conduct of the party concerned. The purpose of introducing liberal construction is normally to introduce the concept of "reasonableness" as it is understood in its general connotation.



26. The law of limitation is a substantive law and has definite consequences on the rights and obligations of party to arise. These principles should be adhered to and applied appropriately depending upon the facts and circumstances of a given case.

Once a valuable right has accrued in favour of one party as a result of failure of the other party to explain the delay by showing sufficient cause and its own conduct, it will be unreasonable to take away that right on the mere asking of the applicant, particularly when the delay is directly a result of negligence, default or inaction of that party. Justice must be done to both parties equally. Then alone the ends of justice can be achieved. If a party has been thoroughly negligent in implementing its rights and remedies, it will be equally unfair to deprive the other party of a valuable right that has accrued to it in law as a result of his acting vigilantly.

27.

28.The concepts such as "liberal approach", "justice oriented approach" and "substantial justice" cannot be employed to jettison the substantial law of limitation. Especially in cases where the court concludes that there is no justification of the delay...."

6.5 In the expressions of this Court in the case of Shubhra Chit Fund Pvt. Ltd. vs Sudhir Kumar, 112 (2004) DLT 609, too much latitude and leniency will make provisions of the Limitation Act otiose, which approach must be eschewed by courts. In the case of Union of India vs C.L. Jain Woolen Mills Pvt. Ltd., 131 (2006) DLT 360, one of the arguments of the applicant Union of India seeking condonation of delay in filing the appeal was that the power to condone delay has been conferred to do substantial justice and the court should adopt a liberal approach and the delay resulting from official procedures should normally be condoned.

This Court rejected the argument, placing reliance on the judgment in the case of P.K. Ramachandran and observed that although the provisions under Section 5 Limitation Act have to receive liberal construction, but the court cannot ignore the fact that where an appeal gets barred by time, a definite right accrues to the opposite party and such right should not be taken away in a routine manner without disclosure of good and a sufficient cause for condonation of delay."



18. In the latest decision, the Hon'ble Supreme Court in the case of **Pathapati Subba Reddy (died) by L.Rs. v. The Special Deputy Collector (LA), 2024 SCC OnLine SC 513**, observed as under:-

“16. 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. In *Collector, Land Acquisition, Anantnag v. Katiji*, this Court in advocating the liberal approach in condoning the delay for ‘sufficient cause’ held that ordinarily a litigant does not stand to benefit by lodging an appeal late; it is not necessary to explain every day's delay in filing the appeal; and since sometimes refusal to condone delay may result in throwing out a meritorious matter, it is necessary in the interest of justice that cause of substantial justice should be allowed to prevail upon technical considerations and if the delay is not deliberate, it ought to be condoned. Notwithstanding the above, howsoever, liberal approach is adopted in condoning the delay, existence of ‘sufficient cause’ for not filing the appeal in time, is a condition precedent for exercising the discretionary power to condone the delay. The phrases ‘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 as a matter of fact dead matters to be revived and re-opened by taking aid of Section 5 of the Limitation Act.”

19. Similarly in the case of **S. Gurdeep Singh through LR's vs. S. Surjeet Singh & Anr.** [FAO 249/2024], the Court held that discretion is not to be exercised by the Court when the delay is caused by negligence, inaction or lack of bonafide. In such cases, even though the law of limitation harshly affects or causes inconvenience to the party, the Court has to apply it with all its rigour. In order to advance substantial justice, though liberal and justice oriented approach or



cause of substantial justice may be kept in mind but the same cannot be used to defeat the substantial law of limitation.

20. In the light of the principles laid down in the aforesaid decisions, upon evaluating the submissions made by the learned counsel for the respondents and the pleas which have been raised, this Court feels constrained to observe that the grounds pleaded in the application seeking condonation of delay fall short of being called good grounds for condoning the delay.

21. Plaintiff No. 2 Smt. Usha Rani Jain passed away on 14.10.2015. Admittedly, she is the sister in law of plaintiff No. 1 Anil Kumar Jain, being the wife of his real brother. It is not the case of plaintiff No. 1 that he was not aware of the death of Smt. Usha Rani Jain. It is also not the case of proposed legal heirs of Smt. Usha Rani Jain that they were not aware of the pendency of the case. The application for bringing on record the legal representatives of Smt. Usha Rani Jain should have been filed within a period of 90 days from the date of her death in terms of Article 120 of the Limitation Act, 1963. Since such application was not filed, the application for setting aside the abatement was required to be filed within a period of 60 days from the date of abatement. Admittedly, the applications under Order 22 Rule 3 & 9 and under Section 5 of the Limitation Act were filed after delay of almost 8.5 years, running into 3023 days delay.

22. It has been asserted by the respondents that plaintiff No. 1 had conveyed his lawyer about the death of plaintiff No. 2 Smt. Usha Rani



Jain in January 2015 itself, but received advice from him that there was no necessity to bring on record the legal heirs because there was no progress in the suit after 06.08.2012 and because of mutual family arrangement. Law is well settled that mistake of a counsel may in certain circumstances be taken into account in condoning the delay, although, there is no general proposition that mistake of a counsel by itself is always a sufficient ground. The question is as to whether the mistake was bona fide or was merely a device to cover an ulterior purpose such as laches on the part of the litigant or an attempt to save limitation.

23. During arguments, learned counsel for the petitioner drew the attention of the Court to the various order sheets to show that multiple advocates were engaged, who appeared for the respondents on different dates. It is highly improbable that all of them gave wrong advice to the respondents. It is being noted over the period of time that there is a growing tendency on the part of the litigants to blame their previous advocates for all the negligence and carelessness for attending the proceedings before the Court. Even if, it is assumed for a moment that application for impleadment of the legal heirs was not filed due to wrong advice of the then counsel, the same by itself cannot be a ground to condone the long and inordinate delay as the litigant also owes a duty to be vigilant of his own rights and is expected to be equally vigilant about the judicial proceedings pending in the court initiated at his instance. The litigant therefore cannot be



permitted to throw the entire blame on the head of the advocate and thereby disown him at any point to seek the relief. The observation of the trial court that no substantial progress had taken place since 06.08.2012 is inconsequential. Plaintiff was duty bound to file an application for impleadment of the legal heirs within the prescribed period of limitation, failing which, he needs to render justifiable explanation. In the case of **Bharat Barrel & Drum MFG Co. v. The Employees State Insurance Corporation, (1971) 2 SCC 860**, the Supreme Court held as under:-

“The necessity for enacting periods of limitation is to ensure that actions are commenced within a particular period, firstly to assure the availability of evidence documentary as well as oral to enable the defendant to contest the claim against him; secondly to give effect to the principle that law does not assist a person who is inactive and sleeps over his rights by allowing them when challenged or disputed to remain dormant without asserting them in a Court of law. The principle which forms the basis of this rule is expressed in the maxim *maximum vigilantibus, non dormientibus, jura subveniunt* (the laws give help to those who are watchful and not to those who sleep). Therefore, the object of the statutes of limitations is to compel a person to exercise his right of action within a reasonable time as also to discourage and suppress stale, fake or fraudulent claims.”

24. The observation of the trial court that after 06.08.2012, plaintiff No. 1 had taken every possible steps which were required to be done by him to show his bona fide and due diligence in pursuing the case or that his conduct does not reflect any inaction or negligence on his part is erroneous. In fact, his conduct was not diligent and he cannot take shield on account of the wrong legal advice given by the then counsel,



more particularly, in view of the fact that during long period of 8.5 years, he engaged multiple counsels.

25. It is evident from the facts and circumstances that except for a vague averment that the counsel of respondent No. 1 gave him wrong advice not to file an application after being informed about the death of Smt. Usha Rani Jain, on account of the reason that no substantial progress had happened since 06.08.2012, there is no justifiable reason to explain the delay of 3023 days in filing the application under Order 22 Rule 3 & 9 of the Code and under Section 5 of the Limitation Act.

26. No doubt, the power under Article 227 is exercised sparingly in appropriate cases like when the finding is so perverse that no reasonable person can possibly come to such a conclusion that the Court has come to. It is axiomatic that such discretionary relief must be exercised to ensure that there is no miscarriage of justice. I find that the order passed by the learned trial court is perverse as respondents failed to show any sufficient cause for delay of 3023 days in filing the application for setting aside the abatement qua Smt. Usha Rani Jain.

27. Petition is allowed and the impugned order dated 13.09.2023 is set aside.

RAVINDER DUDEJA, J.

MAY16, 2025

Ib/RM/AK