IN THE HIGH COURT OF JHARKHAND AT RANCHI
Second Appeal No. 117 of 2025
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1. Bijay Soy @Lehra Ho, S/o Late Tura Ho, aged about 41 years
2. Mora Soy @ Dakua Ho, S/o Late Thorpo Ho, aged about 55 Years
Both residents of Village-Sarjamda, P.O. & P.S.-Parsudih,
District-East Singhbhum .... …. Appellants

Versus

1. Joypal Samad
2. Sunaram Samad
3. Selai @ Diku Samad
4. Hopna Samad
5. Binod Samad
S. Nos.1 to 5 are sons of Late Dasrath Ho
S. Nos.1 to 5 are residents of Village-Sarjamda, P.O. & P.S.- Parsudih, District-East Singhbhum, Jamshedpur
6. Bhodar Ho, S/o Late Ganga Ho
7. Budhni Kui, W/o Late Lukur Ho
8. Minor Lebai Ho, S/o Late Lukur Ho
9. Minor Kathni Ho, D/o Late Lukur Ho
10. Minor Lakhani Ho, D/o Late Lukur Ho
11. Minor Sapani Ho, D/o Late Lukur Ho
12. Minor Puja Ho, D/o Late Lukur Ho
13. Minor Rani Ho, D/o Late Lukur Ho
S. Nos.8 to 13 are represented through their mother and natural guardian namely Budhni Kui
14. Bayo Ho, S/o Late Ganga Ho
15. Bara Kuni, Ho D/o Late Hari Ho
16. Chhota Kuni, Ho D/o Late Hari Ho
S. Nos. 6 to 16 are residents of Village-Khukradih, P.O. & P.S.- Parsudih, District-East Singhbhum

.... Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Appellants : Mr. Nawin Kumar, Advocate
For the Respondents :

11/02.09.2026 **I.A. No.2778 of 2026**

I.A. No.2778 of 2026 has been filed for ignoring the defect nos. 182(b) and 182(c).

2. Learned counsel appearing on behalf of the appellants submits that the appellant no.3 of decree holder under appeal namely Chamru Soy @ Tata Ho died unmarried on 29.05.2020 after pronouncement and he was appellant no.3 in the instant appeal.

3. In view of the statement made in para 3 of the interlocutory application, defect nos. 182(b) and 182(c) are ignored.

I.A. No.2778 of 2026 is allowed and disposed of.

I.A. No.2779 of 2026

I.A. No.2779 of 2026 has been filed for taking leave to file an appeal on behalf of the appellants.

2. Mr. Navin Kumar, learned counsel appearing for the appellants submits that respondent nos.1, 2, 3, 4, 5 and 14 have been made parties in the present appeal and they were not party in the suit and in the appeal. He submits that respondent nos.1 and 2 in the first appeal are the husband and wife and they have died after pronouncement of the judgment by the learned first appellate court as such their heirs and legal representatives have been arrayed as respondent nos. 1 to 5 in instant memo of appeal. He submits that respondent no.3 namely Shambu Ho @ Shambhu Soy died on 02.04.2019 after pronouncement of the judgment of the first appellate court without having any heirs and legal representatives hence, his legal heirs and successors have not been arrayed as party as well as the original respondent no.3 is also not made party in the appeal. He further submits that respondent no.4-Budgu Ho @ Badgu Soy has died issueless on 07.05.2017 after pronouncement of the judgment as such he has not been arrayed as party in the said appeal. He next submits that respondent no.5-Garkha Ho @ Gorkha Soy has also died issueless on 04.11.2017 and as such he has also not been arrayed as party in instant case. He also submits that respondent no.14 has been arrayed as respondent no.8 in the instant appeal and in the decree the appellate court, the name of minor Lebai Ho has been mention in two places i.e. respondent nos.8 and 14. He submits that since he has already made respondent no.8, he has not been made party. He submits that in this background, defect nos. 182(b) and 182(c) may kindly be ignored and leave to appeal may kindly be allowed.

3. In view of the statement made in the interlocutory application as noted in the argument of learned counsel, Mr. Navin Kumar, defect nos. 182(b) and 182(c) are ignored and leave to file the appeal is allowed.

4. I.A. No.2779 of 2026 is allowed and disposed of.

I.A. No.3140 of 2025

I.A. No.3140 of 2025 has been filed for condoning the delay of 2265 days occurred in filing instant second appeal.

2. Learned counsel appearing on behalf of the appellants submits that the plaintiff preferred execution case i.e. Execution Case No.233 of 2022 for execution of the decree passed by the learned trial court in which after notice these appellants appeared in the year 2024 and filed their Vakalatnama with a new counsel, who after going through the case filed their rejoinder in MCA No.26 of 2024 opposing the prayer of amendment of the plaintiffs/decree holder and the appellants were under impression that that is the appeal filed by them and in view of that they have not filed the second appeal. He submits that later on it has been transpired to them to file second appeal and as such delay of 2265 days has occurred. He also submits that partition suit was filed being Title (Partition) Suit No.73 of 2000 which has been decreed and the partition suit was allowed between the parties. He next submits that vide judgment dated 30.04.2009, learned Sub Judge V, Jamshedpur, the partition suit was allowed and property was partitioned between the parties including the appellants herein. Against the said judgment, Title (Partition) Appeal No.48 of 2013 was filed which was further dismissed affirming the judgment of the trial court by the judgment dated 29.08.2016.

3. Admittedly, the partition suit was instituted which was partitioned between the parties, properties has also come into the share of the appellants which has been affirmed by the learned first appellate court. There are concurrent findings of the two courts. I.A. has been filed for condoning the delay of 2265 days. Admittedly, Title (Partition) Suit No.73 of 2000 was decided by the judgment dated 30.04.2009 and partition was done between the parties and share has also been provided to the appellants herein. Against that appeal was filed before the first appellate court which was further dismissed by the judgment dated 29.08.2016 affirming the judgment of the learned trial court.

4. There is no dispute about the fact that generally the lis is not to be rejected on the technical ground of limitation but certainly if the filing of appeal suffers from inordinate delay, then it is the duty of the court to consider the application and condone the delay before entering into the merit of the lis.

5. The Law of limitation is enshrined in the legal maxim interest reipublicae ut sit finis litium (it is for the public good that there be an ends of litigation). Therefore, it is well settled that Rules of limitation are not meant to destroy the rights of the parties, rather the idea is that every legal remedy must be kept alive for a legislatively fixed period of time, as has been held in the judgment rendered by the Hon'ble Apex Court in ***Brijesh Kumar & Others Vs. State of Haryana & Others*****, (2014) 11 SCC 351.** The Privy Council in ***General Accident Fire and Life Assurance Corpn. Ltd. v. Janmahomed Abdul Rahim*****, (1939-40) 67 IA 416**, relied upon the writings of Mr. Mitra in Tagore Law Lecturers, 1932, wherein, it has been said that:

> *"A Law of limitation and prescription may appear to operate harshly and unjustly in a particular case, but if the law provides for a limitation, it is to be enforced even at the risk of hardship to a particular party as the Judge cannot, on equitable grounds, enlarge the time allowed by the law, postpone its operation, or introduce exceptions not recognized by law."*

6. The similar was of the view of Hon'ble Supreme Court case of "**Esha Bhattacharjee v. Raghunathpur Nafar Academy, (2013) 12 SCC 649,** has held as under:

> "*21.5 (v) Lack of bona fides imputable to a party seeking condonation of delay is a significant and relevant fact.*
> *21.7. (vii) The concept of liberal approach has to encapsulate the conception of reasonableness and it cannot be allowed a totally unfettered free play.*
> *21.9. (ix) the conduct, behavior 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.*
> *22.4. (d) The increasing tendency to perceive delay as a nonserious matter and, hence, lackadaisical propensity can be exhibited in a nonchalant manner requires to be curbed, of course, within legal parameters."*

7. It is further well settled that when a litigant does not act with bona fide motive and at the same time, due to inaction and laches on its part, the period of limitation for filing the appeal expires, such lack of bona fide and gross inaction and negligence are the vital factors which should be taken into consideration while considering the question of condonation of delay.

8. Admittedly, in the case in hand, the appellants appeared in the partition suit, contested and decree was passed and certain portion of property was allotted to the appellants. They have also preferred the first appeal which has been dismissed by the judgment dated 29.08.2016. They have also appeared in the execution case and have chosen not to file the second appeal and waited for 2265 days to file the present second appeal.

9. Sufficient cause was considered by the Hon'ble Supreme Court in the case of ***Ramlal, Motilal and Chhotelal Vrs. Rewa Coalfields Ltd.*, (1962) 2 SCR 762**, wherein it has been held that merely because sufficient cause has been made out in the facts of the given case, there is no right to the appellant to have delay condoned and at paragraph-12, it has been held as hereunder:-

> *"12. It is, however, necessary to emphasise that even after sufficient cause has been shown a party is not entitled to the condonation of delay in question as a matter of right. The proof of a sufficient cause is a condition precedent for the exercise of the discretionary jurisdiction vested in the court by Section 5. If sufficient cause is not proved nothing further has to be done; the application for condoning delay has to be dismissed on that ground alone. If sufficient cause is shown then the court has to enquire whether in its discretion it should condone the delay. This aspect of the matter naturally introduces the consideration of all relevant facts and it is at this stage that diligence of the party or its bona fides may fall for consideration; but the scope of the enquiry while exercising the discretionary power after sufficient cause is shown would naturally be limited only to such facts as the court may regard as relevant. It cannot justify an enquiry as to why the party was sitting idle during all the time available to it. In this connection we may point out that considerations of bona fides or due diligence are always material and relevant when the court is dealing with applications made under Section 14 of the Limitation Act. In dealing with such applications the court is called upon to consider the effect of the combined provisions of Sections 5 and 14. Therefore, in our opinion, considerations which have been expressly made material and relevant by the provisions of Section 14 cannot to the same extent and in the same manner be invoked in dealing with applications which fall to be decided only under Section 5 without reference to Section 14. In the present case there is no difficulty in holding that the discretion should be exercised in favour of the appellant because apart from the general criticism made against the appellant's lack of diligence during the period of limitation no other fact had been adduced against it. Indeed, as we have already pointed out, the learned Judicial Commissioner rejected the appellant's application for condonation of delay only on the ground that it was appellant's duty to file the appeal as soon as possible within the period prescribed, and that, in our opinion, is not a valid ground"*

10. The meaning of "sufficient cause" has further been considered in the case of "***Basawaraj & Anr. Vrs. Spl. Land Acquisition Officer*,**

[(2013) 14 SCC 81] wherein paragraphs 9 to 15 the Hon'ble Supreme Court has held as under:-

> *"9. Sufficient cause is the cause for which the defendant could not be blamed for his absence. The meaning of the word "sufficient" is "adequate" or "enough", inasmuch as may be necessary to answer the purpose intended. Therefore, the word "sufficient" embraces no more than that which provides a platitude, which when the act done suffices to accomplish the purpose intended in the facts and circumstances existing in a case, duly examined from the viewpoint of a reasonable standard of a cautious man. In this context, "sufficient cause" means that the party should not have acted in a negligent manner or there was a want of bona fide on its part in view of the facts and circumstances of a case or it cannot be alleged that the party has "not acted diligently" or "remained inactive". However, the facts and circumstances of each case must afford sufficient ground to enable the court concerned to exercise discretion for the reason that whenever the court exercises discretion, it has to be exercised judiciously. The applicant must satisfy the court that he was prevented by any "sufficient cause" from prosecuting his case, and unless a satisfactory explanation is furnished, the court should not allow the application for condonation of delay. The court has to examine whether the mistake is bona fide or was merely a device to cover an ulterior purpose. (See Manindra Land and Building Corpn. Ltd. v. Bhutnath Banerjee [AIR 1964 SC 1336], Mata Din v. A. Narayanan [(1969) 2 SCC 770 : AIR 1970 SC 1953] , Parimal v. Veena [(2011) 3 SCC 545 : (2011) 2 SCC (Civ) 1 : AIR 2011 SC 1150] and Maniben Devraj Shah v. Municipal Corpn. of Brihan Mumbai [(2012) 5 SCC 157 : (2012) 3 SCC (Civ) 24 : AIR 2012 SC 1629] .)*
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> *10. In Arjun Singh v. Mohindra Kumar [AIR 1964 SC 993] this Court explained the difference between a "good cause" and a "sufficient cause" and observed that every "sufficient cause" is a good cause and vice versa. However, if any difference exists it can only be that the requirement of good cause is complied with on a lesser degree of proof than that of "sufficient cause".*
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> *11. The expression "sufficient cause" should be given a liberal interpretation to ensure that substantial justice is done, but only so long as negligence, inaction or lack of bona fides cannot be imputed to the party concerned, whether or not sufficient cause has been furnished, can be decided on the facts of a particular case and no straitjacket formula is possible. (Vide Madanlal v. Shyamlal [(2002) 1 SCC 535 : AIR 2002 SC 100] and Ram Nath Sao v. Gobardhan Sao [(2002) 3 SCC 195 : AIR 2002 SC 1201] .)*
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> *12. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The court has no power to extend the period of limitation on equitable grounds. "A result flowing from a statutory provision is never an evil. A court has no power to ignore that provision to relieve what it considers a distress resulting from its operation." The statutory provision may cause hardship or inconvenience to a particular party but the court has no choice but to enforce it giving full effect to the same. The legal maxim dura lex sed lex which means "the law is hard but it is the law", stands attracted in such a situation. It has consistently been held that, "inconvenience is not" a decisive factor to be considered while interpreting a statute.*
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> *13. The statute of limitation is founded on public policy, its aim being to secure peace in the community, to suppress fraud and perjury, to quicken diligence and to prevent oppression. It seeks to bury all acts of the past which have not been agitated unexplainably and have from*

> *lapse of time become stale. According to Halsbury's Laws of England, Vol. 28, p. 266:*
> *"605. Policy of the Limitation Acts.—The courts have expressed at least three differing reasons supporting the existence of statutes of limitations namely, (1) that long dormant claims have more of cruelty than justice in them, (2) that a defendant might have lost the evidence to disprove a stale claim, and (3) that persons with good causes of actions should pursue them with reasonable diligence." An unlimited limitation would lead to a sense of insecurity and uncertainty, and therefore, limitation prevents disturbance or deprivation of what may have been acquired in equity and justice by long enjoyment or what may have been lost by a party's own inaction, negligence or laches. (See Popat and Kotecha Property v. SBI Staff Assn. [(2005) - 14 - SCC 510] , Rajender Singh v. Santa Singh [(1973) 2 SCC 705 : AIR 1973 SC 2537] and Pundlik Jalam Patil v. Jalgaon Medium Project [(2008) 17 SCC 448 : (2009) 5 SCC (Civ) 907]*
> *14. In P. Ramachandra Rao v. State of Karnataka [(2002) 4 SCC 578 : 2002 SCC (Cri) 830 : AIR 2002 SC 1856] this Court held that judicially engrafting principles of limitation amounts to legislating and would fly in the face of law laid down by the Constitution Bench in Abdul Rehman Antulay v. R.S. Nayak [(1992) 1 SCC 225 : 1992 SCC (Cri) 93 : AIR 1992 SC 1701] .*
> *15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature."*

11. The statute of limitation is founded on public policy, its aim being to secure peace in the community, to suppress fraud and perjury, to quicken diligence and to prevent oppression. It seeks to bury all acts of the past which have not been agitated unexplainably and have from lapse of time become stale in this regard reference may be made to Halsbury's Laws of England, Vol. 28, p. 266:

> *"605. Policy of the Limitation Acts.—The courts have expressed at least three differing reasons supporting the existence of statutes of limitations namely, (1) that long dormant claims have more of cruelty than justice in them, (2) that a defendant might have lost the evidence to disprove a stale claim, and (3) that persons with good causes of actions should pursue them with reasonable diligence."*

12. In view of aforesaid parameters, it is evident that the sufficient cause means that the party should not have acted in a negligent manner

or there was a want of bona fide on its part in view of the facts and circumstances of a case or it cannot be alleged that the party has "not acted deliberately" or "remained inactive". However, the facts and circumstances of each case must afford sufficient ground to enable the court concerned to exercise discretion for the reason that whenever the court exercises discretion, it has to be exercised judiciously. The applicant must satisfy the court that he was prevented by any "sufficient cause" from prosecuting his case, and unless a satisfactory explanation is furnished, the court should not allow the application for condonation of delay. The court has to examine whether the mistake is bona fide or was merely a device to cover the ulterior purpose as has been held by the Hon'ble Supreme Court in the case of **"*Manindra Land and Building Corporation Ltd. Vrs. Bhutnath Banerjee & Ors.*, AIR 1964 SC 1336, *Lala Matadin Vrs. A. Narayanan*, (1969) 2 SCC 770, *Parimal Vrs. Veena @ Bharti*, (2011) 3 SCC 545 and *Maniben Devraj Shah Vrs. Municipal Corporation of Brihan Mumbai*, (2012) 5 SCC 157**.

13. The Hon'ble Supreme in the aforesaid judgment has held that the expression "sufficient cause" should be given a liberal interpretation to ensure that substantial justice is done, but only so long as negligence, inaction or lack of bona fides cannot be imputed to the party concerned, whether or not sufficient cause has been furnished, can be decided on the facts of a particular case and there is no straitjacket formula to decide the same.

14. In the case of **"*Pundlik Jalam Patil V. Executive Engineer, Jalgaon Medium Project*, (2008) 14 SCC 448,** it was observed that the laws of limitation are founded on public policy. Statutes of limitation are sometimes described as "statutes of peace". An unlimited and perpetual threat of limitation creates insecurity and uncertainty' some kind of limitation is essential for public order. The principle is based on the maxim "interest reipublicae ut sit finis litium", that is, the interest of the State requires that there should be end to litigation but at the same time laws of limitation are a means to ensure private justice suppressing

fraud and perjury, quickening diligence and preventing oppression. The object for fixing time limit for litigation is based on public policy fixing a lifespan for legal remedy for the purpose of general welfare. They are meant to see that the parties do not resort to dilatory tactics but avail their legal remedies promptly. "Salmond" in his jurisprudence states that the laws come to the assistance of the vigilant and not of the sleepy.

15. In the aforesaid background and further there are concurrent findings of two courts in the case arising out of partition suit, the appellants have also been provided share in the property. No sufficient cause has been brought to condone the delay of 2265 days and as such this court is not inclined to condone such delay, accordingly, I.A. No.3140 of 2025 meant for condoning the delay of 2265 days, is hereby, rejected. Consequently, the Second Appeal is also dismissed.

(Sanjay Kumar Dwivedi, J.)

Dated 02.09.2026

Anit

A.F.R.

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