IN THE HIGH COURT OF ORISSA AT CUTTACK
I.A. No. 1281 of 2025
(Arising out of RSA No. 458 of 2025)
CNR No. ODHC010644892025

(An application U/s. 5 of the Limitation Act for condonation of delay)

The Rural Works Division,
Koraput ..... Petitioner

-Versus-

Prabhansu Kumar Mohanty
& Another. ..... Opposite Parties

For Petitioner : Mr. G. Mohanty, Standing Counsel

For Opp. Parties : Mr. S.K. Mishra, Senior Advocate
with J. Pradhan, Advocate

CORAM:

MR. JUSTICE SASHIKANTA MISHRA

ORDER
06.11.2026

SASHIKANTA MISHRA, J. This application, filed by the Rural Works Division, Koraput, Odisha-proposed appellant, is for condonation of delay in filing the Second Appeal.

2. Registry has pointed out a delay of 754 days in filing the appeal

3. It is stated that after receipt of the certified copy of the judgment and decree dated 16.05.2023 passed in RFA No.03 of 2019, the Executive Engineer, Rural Works Division, sought clarification from the Engineer-in-Chief vide letter dated 14.07.2023. The Engineer-in-Chief, on examining the judgment and decree, sought the opinion of the Government in the Rural Works Department vide letter dated 24.07.2023. Thereafter, the Government on examining the factual aspects of the case and the records, directed the Executive Engineer, vide letter dated 30.08.2025, to take steps to challenge the judgment and decree. Pursuant thereto, a proposal was sent to the Office of the learned Advocate General, Odisha, on 03.09.2025 for preparation and filing of the Second Appeal. The learned Advocate General entrusted the matter to the learned conducting State Counsel on 08.09.2025 and the Second Appeal was filed on 09.09.2025. In the above circumstances, it is stated that the delay was neither intentional nor deliberate but occurred due to circumstances beyond the proposed appellant's control.

4. Objection has been filed by the proposed respondent No.1 stating therein that the explanation furnished by the proposed appellant is vague and does not disclose sufficient cause for the inordinate delay. In particular, it is stated that no satisfactory explanation has been furnished for the period from 24.07.2023 to 30.08.2025, during which the matter remained under consideration of the Government.

5. Heard Mr. G. Mohanty, learned Standing Counsel for the Petitioner-proposed Appellant and Mr. S.K. Mishra, learned Senior Counsel with Mr. J. Pradhan, learned counsel appearing for the proposed Respondent No.1/Opposite Party No.1.

6. Mr. Mohanty would argue that the delay in filing the appeal has been sufficiently explained and the reasons cited constitute sufficient cause for condonation. He further submits that the State cannot be equated with a private litigant, as official formalities have to be observed in the matter of movement of files from one functionary to another. Moreover, the Executive Engineer, despite being aware of the passing of the judgment and decree, could not have taken a

decision on his own to prefer appeal. Accordingly, the matter was referred to the Engineer-in-Chief, who, in turn, sought the opinion of the Government in the Rural Works Department and ultimately, on receipt of the Government's decision, the matter was referred to the Office of the learned Advocate General for preparation and filing of the Second Appeal.

7. Per contra, Mr. Mishra submits that the explanation furnished by the proposed appellant is vague and fails to establish sufficient cause for the inordinate delay, particularly for the period from 24.07.2023 to 30.08.2025. He also contends that the State is not entitled to any special concession in the matter of condonation of delay and is subject to the same standards as other litigants. In support of his contentions, he relies on the decision of this Court passed in the case of ***State of Orissa V. Nirupama Das and Ors.***[1]

8. Having considering the rival contentions and perusing the application for condonation of delay and the objection filed thereto, it would be apposite at the outset to refer to

[1] RSA No. 198 of 2020

the law relating to limitation as laid down in the case of ***Collector, Land Acquisition, Anantnag and Another V. Mst. Katiji and Other***[2]**.** It was held that the Court is required to adopt a justice-oriented approach and avoid a pedantic view of the matter. However, a liberal approach does not dispense with the statutory requirement of establishing sufficient cause for the delay. The length of the delay may not, by itself, be decisive, but the explanation furnished for such delay must be reasonable and acceptable. The State, only because it acts through various administrative authorities and follows a decision-making process, cannot claim any automatic exemption from the law of limitation. The administrative movement of files and procedural formalities, without a satisfactory explanation for the period consumed thereby, cannot by themselves constitute sufficient cause.

9. In the present case, although the Executive Engineer sought clarification from the Engineer-in-Chief vide letter dated 14.07.2023, who, in turn, sought the opinion of the Government in the Rural Works Department vide letter

[2] (1987) 2 SCC 107

dated 24.07.2023, the application does not disclose any specific steps taken or circumstances explaining why the matter remained under consideration until 30.08.2025, when the Government finally directed the Executive Engineer to challenge the impugned judgment and decree. The contention of Mr. Mohanty that the Executive Engineer could not independently decide to prefer an appeal may explain the necessity of obtaining administrative approval, but does not in the least justify the prolonged delay in obtaining such approval. The subsequent filing of the Second Appeal within a short period of the Government's decision cannot cure the failure to explain the intervening period. As held by this Court in the case of ***Nirupama Das (Supra)***, the State is not entitled to any special concession in the matter of condonation of delay and administrative procedures or movement of files cannot, in the absence of a reasonable and acceptable explanation, constitute sufficient cause. The only ground that the delay was neither intentional nor deliberate and arose from circumstances beyond the proposed appellant's control is insufficient, as the proposed appellant has failed to demonstrate due

diligence or satisfactorily explain the prolonged period of administrative inaction.

10. For the foregoing reasons therefore, this Court is not inclined to condone the delay of 754 days in filing the appeal.

11. In the result, the I.A. is rejected. Resultantly, the Second Appeal also stands dismissed.

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Sashikanta Mishra
Judge

Signature Not Verified
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Signed by: PUSPANJALI GHADAI
Designation: JUNIOR STENOGRAPHER
Reason: Authentication
Location: High Court of Orissa, Cuttack.
Date: 06-Nov-2026 17:25:36

High Court of Orissa, Cuttack,
6th of November, 2026/Puspanjali Ghadai, Jr. Stenographer