

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CIVIL APPLICATION (FOR CONDONATION OF DELAY) NO. 3440 of
2025

In F/FIRST APPEAL/18821/2025

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HEIRS OF DECD. NAGPALSINH VIKRAMSINH PARMAR & ORS.
Versus
DILIPKUMAR KIRTIBHAI MISTRI & ANR.

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Appearance:

MR VISHAL C MEHTA(6152) for the Applicant(s) No. 1,1.1,1.2,1.3,1.4,1.5
MASUMI V NANAVATY(9321) for the Respondent(s) No. 2
MR VIBHUTI NANAVATI(513) for the Respondent(s) No. 2
NOTICE SERVED for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

Date : 23/02/2026

ORAL ORDER

- 1) Heard learned counsel for the respective parties. Though served, none appears for respondent No.1. Registry to show the name of Mr.Vibhuti Nanavaty, learned counsel for the Insurance Company in First Appeal.
- 2) This application is filed under Section 5 of the Limitation Act for condonation of delay of 153 days caused in filing the First Appeal.
- 3) It is submitted by the learned advocate for the applicant that the applicant could not file First Appeal in timely fashion because of the reasons mentioned in the application and therefore, has requested to condone the delay caused in filing the First Appeal.
- 4) Considering the submissions made by the learned advocates for the respective parties, the applicant has mentioned sufficient cause for condonation of delay. The primary function of the Court is to adjudicate the dispute between the parties and to advance substantial justice. Rules of limitation are not meant to destroy the

rights of parties. The Court is aware of the fact that denial to condone the delay would mean to dismiss the First Appeal at threshold and there is no presumption that the delay caused by the applicant is deliberate. In view thereof, the words 'sufficient cause' under Section 5 of the Limitation Act should receive a liberal consideration so as to advance substantial justice. Even reason stated appears to be bonafide and genuine. There is no smack of malafide or dilatory tactics on the part of the applicant. Further, it is apposite to refer to the decision of the Hon'ble Apex Court in the case of **N. Balakrishnan v. N. Krishnamurthy** reported in **(1998) 7 SCC 123**.

- 5) In view of the above, delay of 153 days as explained in memo of the application is condoned. The application is accordingly **allowed**.

(HASMUKH D. SUTHAR,J)

SUCHIT

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: PATEL SUCHIT JAYESHBHAI(HC01083), Private Secretary, at High Court of Gujarat on 23/02/2026 14:45:18