IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CIVIL APPLICATION (FOR CONDONATION OF DELAY) NO. 5895 of 2025
In
F/FIRST APPEAL/36399/2025

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RATNABEN W/O DIPAKKUMAR PITRODA D/O ARUNBHI VRAJLAL CHUDASAMA & ANR.
Versus
DIPAKKUMAR KANTILAL PITRODA
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Appearance:
MR JOHNSEY P MACWAN(5498) for the Applicant(s) No. 1,2
MR YN RAVANI(718) for the Respondent(s) No. 1
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CORAM: **HONOURABLE MR. JUSTICE ILESH J. VORA**
and
HONOURABLE MR. JUSTICE R. T. VACHHANI

Date : 09/06/2026

ORAL ORDER
(PER : HONOURABLE MR. JUSTICE ILESH J. VORA)

1. This application under Section 5 of the Limitation Act, 1963, has been filed on behalf of the appellant, seeking condonation of delay of 105 days in filing the present appeal.

2. We have heard learned counsel Mr. J. P. Macwan and Mr. Y. N. Ravani, for the respective parties.

3. Brief facts giving rise to file present application are that, the opponent husband had filed a Family Suit No. 228 of 2018 in the Family Court at Nadiad for divorce from the applicants herein on the ground that she has been living adulterous life. Vide judgment and decree dated 13.05.2025, the Family Court dissolved the marriage.

4. In the aforesaid facts, after delay of 105 days, the appeal has been presented before this Court. It is averred in the application that, delay has occasioned on account of acute financial crunch and it is only after arranging of necessary amount to be paid towards professional fees, the applicant has been able to file the aforesaid Appeal.

5. Mr. Macwan, learned advocate reiterating the averments made in the application, has submitted that, the applicant wife has no means for her livelihood and due to financial crunch, she could not arrange a necessary professional fees and after the arrangement, she would able to file an Appeal and on that ground, the delay has occasioned. In such circumstances, it is submitted that, the sufficient cause may be liberally construed to do substantial justice.

6. On the other hand, opposing the application, Mr. Y.N. Ravani, learned counsel reiterating the contentions of the affidavit-in-reply, has submitted that the reasons set forth for the delay are totally insufficient to condone the delay and the explanation is not satisfactory. He would further urge that, the decree came to be passed on 13.05.2025. The applicant moved an application dated 22.09.2025 addressed to Vadodara Police for domestic violence etc, thereafter on 27.11.2025, she filed a Recovery Application of interim maintenance and then, on 03.12.2025, she has presented the appeal along with delay condonation application. Thus, it shows that the applicant had spent amount towards the legal proceedings, which proves that, the plea of financial crunch is fabricated excuse and therefore, the delay has caused is not due to lack of means but

deliberate and negligent act on the part of the applicant. Thus, considering the conduct, behaviour and attitude of the applicant, who is admittedly living adulterous life with the applicant no. 2, no sufficient ground made out for condoning the delay.

7. We have considered the submissions and averments made in the application as well as the affidavit in reply.

8. The Apex Court has observed as under:

"8. It is well settled that the discretion to condone delay has to be exercised judiciously, based on the facts and circumstances of each case. It is also equally well settled that even though limitation may harshly affect the rights of the parties but it has to be applied with all its rigour as prescribed under the statute, as the Courts have no choice but to apply the law as it stands and they have no power to condone the delay on equitable grounds.

9. In a case of Pathapati Subba Reddy (died) by L.Rs. and others Vs. Special Deputy Collector (L.A.), 2024 SCC Online SC 513wherein the Hon'ble Apex Court held as under:-

> *"26. On a harmonious consideration of the provisions of the law, as aforesaid, and the law laid down by this Court, it is evident that:*
>
> *(i) Law of limitation is based upon public policy that there should be an end to litigation by forfeiting the right to remedy rather than the right itself;*
>
> *(ii) A right or the remedy that has not been exercised or availed of for a long time must come to an end or cease to exist after a fixed period of time;*
>
> *(iii) The provisions of the Limitation Act have to be construed differently, such as Section 3 has to be construed in a strict sense whereas Section 5 has to be construed liberally;*
>
> *(iv) In order to advance substantial justice, though liberal approach, 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 contained in Section 3 of the Limitation Act;

(v) Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power is discretionary in nature and may not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence;

(vi) Merely some persons obtained relief in similar matter, it does not mean that others are also entitled to the same benefit if the court is not satisfied with the cause shown for the delay in filing the appeal;

(vii) Merits of the case are not required to be considered in condoning the delay; and

(viii) Delay condonation application has to be decided on the parameters laid down for condoning the delay and condoning the delay for the reason that the conditions have been imposed, tantamount to disregarding the statutory provision."

10. In a case of Basawaraj Vs. Special Land Acquisition Officer, the Hon'ble Apex Court held as under:-

"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"

25. In the aforesaid case law, the Hon'ble Apex Court further held as follows:-

"15. The law on the issue can be summarized 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 bonafide 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."*

9. Considering the ratio laid down in the aforesaid case law and having regard to the peculiar facts and circumstances of the present case, it is an admitted facts that the applicant wife is belonged to lower strata of the society and nothing on record to show that she is financially sound. The applicant no. 2, against whom the allegation being made, has been joined because before the Family Court, he was joined as an opponent. The opponent husband failed to demonstrate that the applicant no. 2 having sufficient means and he is able to bare the legal expenses. In such circumstances, merely filing complaints and perusing the recovery proceedings, cannot be a ground to presume that the applicant no. 1 having sufficient means. Thus, therefore, in our opinion, in such circumstances, avoiding technical approach and construing liberally, the term “sufficient cause” to do substantial justice, we are of the considered opinion that, the delay was not occasioned deliberately or on account of negligence or malafides.

10. For the reasons recorded, we are satisfied with the reasons stated in the application. The applicants have established sufficient cause and therefore, delay in preferring the first appeal deserves to be condoned and is hereby condoned. Rule is made absolute.

(ILESH J. VORA,J)

(R. T. VACHHANI, J)

P.S. JOSHI

Original copy of this order has been signed by the Hon'ble Judges.
Digitally signed by: PALLAV SUBHASHCHANDRA JOSHI(HC00177), Principal Pvt. Secretary, at High Court of Gujarat on 10/06/2026 13:40:17