



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

115 CIVIL APPLICATION NO. 9237 OF 2025
IN CRAFT/25458/2025

MANGESH ASHOKRAO DHAGE
VERSUS
YOGITA MANGESH DHAGE

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Mr. N. S. Kadarale, Advocate for Applicant
Mrs. Yogita Mangesh Dhage, Party In Person for Respondent

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CORAM : SHAILESH P. BRAHME, J.
DATE : 23.02.2026

ORDER :-

. The applicant seeks to condone delay of 371 days in preferring the revision application against the order dated 02.05.2024 passed below Exhibit-16 in Hindu Marriage Petition (HMP) No.152 of 2019.

2. The delay is sought to be condoned on the grounds enumerated in paragraph Nos.5 to 11 of the application. It is tried to be explained that the delay from 02.05.2024 till 03.10.2024 i.e. filing of Writ Petition No.12339 of 2024 is desirable to be condoned due to ill health and disability of the applicant's aged parents and the talks of settlement were going on. Further delay is sought to be condoned on the ground that the applicant was prosecuting the writ petition bonafide, which was withdrawn with a leave to file revision application on 07.08.2025. Present application is filed on

19.08.2025.

3. Mr. N. S. Kadarale, learned counsel for the applicant relies on the averments of the application for condonation of delay. It is contended that his client had the responsibility of looking after disabled parents. My attention is adverted to the medical papers produced on record. The disability of applicant's father is permanent in nature and the medical certificate of mother's ailment specifically mentions the ailment which cannot be doubted. It is further submitted that as there was possibility of settlement, the applicant did not rush to the Court challenging the order dated 02.05.2024. It is further submitted that immediately after withdrawing the writ petition, present revision is filed.

4. Per contra, the respondent, appearing party-in-person, the wife of the applicant would oppose the grounds for the condonation of delay. It is vehemently submitted that there is unexplained gap of about five months from 02.05.2024 to 03.10.2024 i.e. filing of the writ petition. It is submitted that the grounds mentioned in paragraph Nos.4 and 5 regarding the ailment of the parents and talks of settlement are palpably false. It is submitted that the writ petition itself was filed belatedly and the applicant had all the while legal assistance. The lawyer appearing in this Court has represented the applicant before all the Courts. It is submitted that the disability certificate of father of the applicant and the medical papers of mother are vulnerable. It is further

submitted that the delay is unexplained. The interim relief passed on 18.11.2024 in the writ petition is operating against the respondent. The respondent has to look after the daughter born out of the wedlock for which no provision of maintenance is made by the applicant.

5. I have considered rival submissions of the parties. The impugned order is passed below in the proceedings initiated by the respondent for restitution of conjugal rights. Initially, being aggrieved, Writ Petition No.12339 of 2024 was filed on 03.10.2024. The learned Single Judge was pleased to grant stay to the proceedings of HMP No.152 of 2019 vide order dated 18.11.2024. The writ petition was found to be not maintainable, when the matter came up before another learned Single Judge on 07.08.2025. That time leave to convert the petition into revision was refused by recording reasons. The writ petition was not filed promptly in this Court. Those lapses are sought to be explained in paragraph Nos.4 and 5 of the present application.

6. I have gone through disability certificate of the father of the applicant which is issued on 19.04.2017 disclosing 52% permanent disability. The medical certificate of his mother shows the ailments and advice for rest for 10 days which was to expire on 04.03.2024. It is rightly submitted by the respondents that the mother can be said to be a person who could look after the father despite his disability at least for the period which is required to prefer revision application.

7. The ailment and age of the parents cannot be said to be the appealing grounds which could prevent the applicant from approaching this Court. It is specifically mentioned in paragraph No.5 of the application that certified copies of the impugned orders were received on 16.05.2024. There is nothing on record to suggest any impediment in approaching this Court from 16.05.2024.

8. Further ground is that talks of settlement were going on and legal advise was required to be sought. Except bare words, there is no material to corroborate the averments. It is not made clear as to how long the so-called talks were going on. It has been pointed by the respondent that the applicant had legal assistance and the lawyer who is representing him in the present matter is the lawyer represented him before the Trial Court as well as Court at Pune. The grounds mentioned in paragraph Nos.4 and 5 are absolutely not convincing.

9. The applicant had legal assistance and despite that the writ petition was filed on 03.10.2024. Interim relief was secured *ex parte* on 18.11.2024. Thereafter, the respondent appeared in the matter on receiving the notice.

10. The coordinate bench specifically refused permission to convert writ petition into civil revision application vide order dated 07.08.2025. The

lapses in filing the writ petition are noticed. The applicant is prosecuting wrong remedy but he is enjoying the interim relief. The excuse for filing wrong remedy cannot be entertained in such a situation. I find that the lapses on the part of the applicant are apparent and uncondonable.

11. The applicant is not entitled to get benefit of Section 14 of the Limitation Act, 1963. A useful reference can be had to the following principles laid down by the Supreme Court in Consolidated Engineering Enterprises vs. Principal Secretary, Irrigation Department and Others reported in (2008) 7

Supreme Court Cases 169 :

“31. To attract the provisions of Section 14 of the Limitation Act, five conditions enumerated in the earlier part of this judgment have to co-exist. There is no manner of doubt that the section deserves to be construed liberally. Due diligence and caution are essential prerequisites for attracting Section 14. Due diligence cannot be measured by any absolute standards. Due diligence is a measure of prudence or activity expected from and ordinarily exercised by a reasonable and prudent person under the particular circumstances. The time during which a court holds up a case while it is discovering that it ought to have been presented in another court, must be excluded, as the delay of the court cannot affect the due diligence of the party. Section 14 requires that the prior proceeding should have been prosecuted in good faith and with due diligence. The definition of good faith as found in Section 2(h) of the Limitation Act would indicate that nothing shall be deemed to be in good faith which is not done

with due care and attention. It is true that Section 14 will not help a party who is guilty of negligence, lapse or inaction. However, there can be no hard-and-fast rule as to what amounts to good faith. It is a matter to be decided on the facts of each case. It will, in almost every case be more or less a question of degree. The mere filing of an application in wrong court would not prima facie show want of good faith. There must be no pretended mistake intentionally made with a view to delaying the proceedings or harassing the opposite party. In the light of these principles, the question will have to be considered whether the appellant had prosecuted the matter in other courts with due diligence and in good faith.”

12. This Court cannot be oblivious of the fact that the respondent is maintaining a daughter. She is appearing in person. When the status of the applicant is pitted against the respondent, the applicant stands on better footing. I find no substance in the application.

13. Civil Application for delay is rejected.

(SHAILESH P. BRAHME, J.)