



IN THE HIGH COURT OF BOMBAY AT GOA
MISC.CIVIL APPLICATION NO.202 OF 2026
WITH
CIVIL APPLICATION (REVIEW) NO.2 OF 2025 (F)
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IN
CIVIL APPLICATION (REVIEW) NO.2 OF 2025 (F)

PETER FERNANDES ... APPLICANT
Versus
MARC CORDEIRO AND 2 ORS ... RESPONDENTS

WITH
CIVIL APPLICATION (REVIEW) NO.2 OF 2025 (F)
IN
APPEAL FROM ORDER NO.662 OF 2023 (F)

PETER FERNANDES ...APPLICANT
Versus
MARC CORDEIRO AND 2 ORS. ... RESPONDENTS

Mr. Deep Shirodkar, Advocate for the Applicant.

Mr. Parag Rao with Mr. Akhil Parrikar, Advocate for
Respondent Nos. 1 and 2.

Mr. Somnath B. Karpe, Mr. Anand Shirodkar and Ms. Samiksha
Vaigankar Advocates for Respondent No. 3.

CORAM:- VALMIKI MENEZES, J.

DATED :- 17th April, 2026

P.C.:

1. This is an application seeking condonation of the delay of 207 days in filing a review application, seeking review of the judgment dated 25.04.2024 passed by this Court dismissing the appeal from Order No.662/2023. The said appeal was in challenge to an order passed by the Civil Court in review Petitioner's suit, dismissing an application for a temporary injunction to restrain the Respondents from constructing on the suit property and creating third party rights therein.
2. It is the contention of the Applicant, as stated in the application that, after this Court dismissed the appeal on 25.04.2024, he filed a Special Leave Petition before the Supreme Court on 18.07.2024 to challenge the same; the Special Leave Petition came to be heard on 12.08.2024 and was dismissed on the same date.
3. It is the contention of the applicant that at that stage, no review was contemplated as the advice given to him was to file an appeal to the Supreme Court, which ultimately came to be dismissed on 12.08.2024. By then, the period of limitation to file a review had expired on 25.05.2024, which was during the vacation of the High Court, and if a review was to be filed, it had to be filed by 10.06.2024, on reopening of the Court.

4. The Applicant further states that after the Special Leave Petition was dismissed, his matter before the Trial Court, which was listed on 14.10.2024, came to be adjourned to 13.1.2025. Prior to the date of hearing of the suit on 14.10.2024, it is the Applicant's case that he had a severe knee injury in the second week of September 2024, for which his movements were restricted, and for which he sought treatment from an orthopedic surgeon Dr. Vishal Dubhashi. The Applicant produced in rejoinder, on the Respondents' reply, denying this factual position, a report of MRI scan, where the radiologist had suggested that the scan of the Applicant's left knee was done on 03.10.2024, which, according to the applicant, reports an injury to his knee.

5. It is for the aforesaid reasons, the Applicant claims that he was unable to meet his Advocate prior to the hearing of the trial Court matter on 14.10.2024 and was under the impression that since his suit was listed on 13.01.2025, he would meet his Advocate with regard to steps to be taken in the suit, a little prior to that date. The Applicant then goes on to aver that he met his Advocate to discuss the steps to be taken in the suit, on 09.12.2024 and was advised to meet the Advocate who has filed the appeal before this Court to explore the possibilities of filing a review application, in view of the fact that the Special Leave Petition had been dismissed by the Supreme Court, by rejection of the Special Leave Petition simpliciter. Accordingly, the Applicant states that he met the Advocate on 17.12.2024, who advised that a review should be filed under these circumstances, which was in fact filed,

considering that the High Court was closed for Christmas Vacation, on its reopening on 02.01.2025. According to the learned Counsel appearing for the Applicant, this is a sufficient explanation which would show cause as to why the application should be allowed.

6. The application was opposed by the Respondents. Respondent Nos. 1 and 2 filed an affidavit in reply denying the contentions stated in the application. In rejoinder to this affidavit, the Applicant filed an affidavit in rejoinder, along with which he produced the reports of the radiologist of the left knee's MRI scan done by him. Respondent No.3 has also filed an affidavit in reply denying the Applicant's contentions.

7. The main contentions raised in support of the submission that the application should be dismissed are that there is no sufficient explanation in the application for justifying the condonation of delay of 207 days in filing the review application; the Respondent nos.1 and 2 submit that if correctly calculated, there is in fact a delay of 221 days delay which has not been justified by the facts stated in the application which are unsupported by any documents.

8. Having considered the rival contentions and the explanation offered by the applicant in the application along with denial of these contentions by way of affidavit, I am of the view that the application is required to be allowed for the following reasons:

The first question before me is whether the facts pleaded in the application, if considered in their chronological perspective, are

enough to show good cause to arm this Court with jurisdiction under Section 5 of the Limitation Act to grant this application. After the appeal was dismissed by this Court on 23.04.2024, it is the applicant's contention that there was no review application contemplated, since he was advised to file Special Leave Petition to challenge the order of dismissal dated 25.04.2024; he in fact filed the Special Leave Petition on 18.07.2024 within the period of limitation of 90 days that petition came to be dismissed on 12.08.2024. Considering that the petitioner acted on legal advice to file a Special Leave Petition, there is no doubt that he has acted bonafidely in challenging the order of this Court in Special Leave Petition within the period of limitation.

9. Further question that arises is whether, after the Special Leave Petition was dismissed, there is sufficient justification found in the application between the dates of dismissal of the Special Leave Petition and the filing of the application for review, which supports the applicant's case for condoning the delay.

10. It is the applicant's contention that after the Special Leave Petition was dismissed on 12.08.2024, since the suit was listed on 14.10.2024 by the trial Court, he wanted to meet his trial Advocate to discuss the suit a little prior to that date. According to his statements in the application, he had a severe injury to his left knee in the second week of September 2024, which left him indisposed and as such, he was unable to meet his Advocate who appeared before the trial Court, prior to 14.10.2024. He further avers that he was taking medical

treatment for the left knee injury from Dr. Vishal Dubhashi an Orthopedic Surgeon, on whose advice an MRI scan was done. A report of an MRI scan which is on record and which is dated 03.10.2024, records the radiologist's findings as showing that the Applicant has a mild depression of the pastero-lateral tibial candyle noted with small subchondral cysts larger one measuring 0.8 x 0.6cms in size- likely secondary to old injury, Overlying cartilage is intact. Mild thinning of the wight bearing articular cartilage is noted along the lateral femoral condyle. The report also records that the applicant was referred to the Radiologist by Dr. Vishal Dubhashi.

11. A plain reading of the report suggested the fact that the Applicant did suffer from a left knee injury and was referred to for MRI scan by Dr. Vishal Dubhashi. To that extent, the statements made in the application that the applicant suffered a left knee injury in the second week of September and was taking treatment of Dr. Vishal Dubhashi cannot be held to be false. The application, insofar as its contents justified the inability of the applicant to approach his Advocate prior to the date for hearing before the trial Court on 14.10.2024, is therefore justified and must be accepted to be bonafide.

12. According to the applicant, the next date to which the trial Court matter was adjourned from 14.10.2024 to 13.10.2025. According to the Applicant, he was to meet his Advocate a little prior to the next date of hearing of the trial. The applicant contended that he was under the bonafide belief that since the Special Leave Petition was dismissed, he

wanted to pursue his suit, and was unaware that there was a possibility of a review application. It is his case in the application that it is only when he met his advocate appearing in the trial Court on 09.12.2024 that he was advised to meet the Advocate that had appeared and represented him in his appeal in the High Court to explore the possibility of filing a review since the Special Leave Petition filed by him was simpliciter dismissed. He claims that he met the Advocate who appeared for him before the High Court on 17.12.2024, when he was advised that a review application could be filed. He claims that it was at that time that the decision was taken to file a review application, but the same was not filed until 02.01.2025 due to the intervening Christmas Vacation of the High Court; the review application was filed immediately on the reopening of the High Court. Even if one accepts the contentions that calculations of limitation in the application are erroneous and if delay is calculated correctly from the date of dismissal of the appeal to the date of filing of the review application computes to 221 days, in my opinion the justification given for the delay even from 09.12.2024 when the applicant met his trial Court Advocate and thereafter met the Advocate who appeared in the appeal on 17.12.2024 sufficiently explains the delay in filing the review application. I do not find any reason to disbelieve his statements as going by the flow of the dates and considering that the applicant was under bonafide impression at least till 09.12.2024 that he would be pursuing the suit, and had no legal advise that the review application was possible, the justification offered must be accepted.

13. For all the aforesaid reasons, the delay in filing the review application of 221 days is condoned. The Application is allowed. The review application shall be registered within a period of one week and placed for hearing on 18.06.2026.

VALMIKI MENEZES, J.