

Digitally signed
by HARISH
VITHAL
CHAUDHARI
Date:
2026.02.13
19:04:48
+0530

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION**

CIVIL REVISION APPLICATION NO.20 OF 2026

President Devasthan Sthanik Sallagar Samiti ...Applicant

Vs

Mahadev Jotiba Patil Deceased

Thr. Lrs. Malu Mahadev Patil And Ors. ...Respondents

Adv. Ashirwad Kolekar a/w Shrikrishna Ganbavale for the Applicant.
Mr. Chetan G. Patil a/w Mr. Prathamesh P. Magadum and Bhushan S.
Jadhav for the Respondents.

CORAM : M. M. SATHAYE, J.

DATE : 13th FEBRUARY 2026.

P.C.

1. Heard learned counsel for the parties. Perused the record.
2. Revision Applicant is Defendant in a suit filed by the Respondents for perpetual injunction. The Respondents filed an application Exh-5 seeking interim injunction not to construct in the suit premises or change its nature or to obstruct the possession of the Respondents. This application was dismissed by order dated 18.02.2025. The Respondents filed Misc. Civil Appeal challenging the said order below Exh-5. There was delay in filing the Misc. Civil Appeal and as such, an application for condonation of delay (Civil Misc. Application No. 46 of 2025) was filed on 3.10.2025. Considering the period of limitation and assuming that no time was lost in getting certified copies, there is delay of about 6 months and 17 days.
3. By the impugned order dated 20.12.2025 passed by District Judge-2, Gadhinglaj in said delay condonation application has been

allowed. In these circumstances, the Applicant/Orig. Defendant is before this Court challenging the condonation of delay.

4. Learned counsel for the Applicant submitted that only explanation given in the delay condonation application is that the Plaintiff No. 1b is working in Merchant Navy and therefore, he was not available in the country for filing appeal, therefore, he had given power of attorney to Plaintiff No. 2b for filing the appeal and medical reason is pleaded for other family members. He submits that the power of attorney given in favour of Plaintiff No. 2b is not placed on record and the medical evidence does not indicate any serious ailment to hold that other family members were indisposed. He submitted that the learned Judge while condoning the delay, has unnecessarily considered the merits, which is not permissible at delay condonation state. He relies on the judgment of **Pathapati Subba Reddy (died) by L.rs. & Ors. vs. The Special Deputy Collector (La) Special Leave Petition (Civil) No. 31248 of 2018 order dated 8.04.2024** by the Hon'ble Supreme Court in support of his case.

5. On the other hand, learned counsel for the Respondents-Orig. Plaintiffs supported the impugned order by contending that the delay is not inordinate. He submitted that even though in part of the impugned order merits are considered, the material consideration of 'sufficient cause' is also seen in the impugned order. He submitted that delay condonation application has to be considered liberally, unless the facts on record are such as to disbelieve the cause pleaded. He submitted that medical ground is also pleaded and therefore impugned order may not be interfered with

6. I have considered the rival submissions and perused the record.

7. At the outset, it is noted that guidelines in **Pathapati Subba Reddy (supra)** are well established and there can not be any dispute about it. It is not the length of the delay but the reasons offered, which is material consideration. By the very nature of prayer of delay condonation,

it depend on the facts of each case and there cannot be a straight jacket formula for delay condonation application.

8. Perusal of the application indicates that one of the family members was not in the country as he was working in Merchant Navy. There is reference of power of attorney being given by him in favour of other family member. Overall reading of the application does not indicate that for absence of power of attorney, the appeal could not be filed. The reasons stated in paragraph Nos. 1 and 2 in my view indicates unavailability of one of the family members and action taken by the other family member on the basis of power of attorney. The Respondents have also pleaded medical grounds.

9. In light of such pleadings, when the impugned order is perused, true that in part of the impugned order, the Appeal Court has considered the dispute on merits, but the Appeal Court has also given its thought to the sufficient cause pleaded, which is evident from paragraph Nos. 8 to 10 by the impugned order.

10. The delay of 6 months and 17 days cannot be said to be so inordinate as not to be considered liberally. There is nothing on record to disbelieve a case made out in application. The Appeal Court has considered that one of the family members is working in Merchant Navy and is not in a routine job, who was not available. The Court has considered that the other family members, who are female members of old age, have health issues. A decision by common consultation of all family members can not be disbelieved. The Court has considered medical papers placed on record. Courts are not experts to comment upon the medical record to conclude one way or the other, especially when delay condonation is under consideration.

11. The Appeal Court has exercised its discretion by condoning the delay and Respondents are saddled with costs, which in the opinion of the Appeal Court was sufficient to compensate the Applicant.

12. In the aforesaid facts and circumstances, in my view, there is no perversity or apparent error or jurisdictional error in the impugned order. As such, this is not a fit case for interference.

13. Civil Revision Application is accordingly dismissed. No order as to costs.

14. All concerned to act on duly authenticated or digitally signed copy of this order.

[M. M. SATHAYE, J.]