

INTERIM APPLICATION NO. 10442/2025
IN
FIRST APPEAL ST. NO. 22660/2025

SATYENDRA BALASAHEB BHONSALE ..APPLICANT
VS
RAMNATH BANSILAL GOLECHA AND ORS. ..RESPONDENTS

Adv. R. S. Navandar a/w. Adv. D. B. Gade for appellants/applicants.
Adv. Tanishka Chavan a/w. Adv. Bharat Gadhavi, Adv. Aniket Shitole
i/b. Adv. Tejesh Dande for respondent no.1 – original plaintiff.

DATE : 21 APRIL 2026.

1) This interim application has been filed by original defendant no.13 for seeking condonation of delay of 2077 days in filing First Appeal St. No.22660/2025 challenging the judgment and decree dated 26/9/2019 passed by the CJSD, Pune, in Special Civil Suit No.1249 of 2008.

3) The judgment and decree passed on 26/9/2019 passed by the CJSD, Pune, in Special Civil Suit No.1249/2008 has been challenged by three parties in this Court.

4) In the present proceeding, he is defendant no.13, so also defendant no.17 (First Appeal St.No.10662/2023) and defendant no.18 (First Appeal No.1176/2022).

5) The first appeal filed by the defendant no. 18 is in time and therefore, the same would be required to be admitted and heard on merits.

6) The present applicant is defendant no.13, is challenging the same judgment and decree which is challenged by defendant no.18, and if the delay condonation application is rejected, once the first appeal filed by defendant no.18 is admitted, the present applicant who is respondent therein is also required to be heard, and he may be advised to file cross appeal to the same.

7) In order to condone the delay, the applicant has filed an affidavit, as well as an additional affidavit explaining the delay. The preliminary ground is that the applicant is not a resident of Maharashtra but of Madhya Pradesh, and he used to travel to Pune to attend the court proceedings.

8) It is his case that the Power of Attorney holder is to act on his behalf. The said Power of Attorney holder is not safeguarded his rights, hence, the decree is suffered by him, and it was not

communicated to him of passing of decree. He further stated that the applicant was not properly represented in the proceeding before the trial Court, therefore, in the interest of justice, the delay may be condoned and the first appeal be heard on merits.

9) Learned counsel for the applicant has relied upon the judgment of *Improvement Trust, Ludhiani vs. Ujagar Singh and others*¹.

10) Learned counsel for the respondent no.1/original plaintiff has opposed this application as the decree is passed in her client's favour. She has relied upon the judgment of *Shivamma (Dead) by Lrs. vs. Karnataka Housing Board and others*².

11) Learned counsel appearing for the applicant in the present interim application submits that delay should be condoned in the interest of justice and her client is ready to pay a cost of Rs.5,00,000/-.

12) Supreme Court in the judgment of *Collector, Land Acquisition, Anantnag and another Vs. Mst. Katji and Others* reported in *1987 SC 1353*, has held that:

“Every day's delay must be explained” does not mean that a pedantic approach should be made. Why not every house's delay. Every second's delay ? The doctrine must be applied in a rational common sense pragmatic manner.”

1 (2010) 6 SCC 786

2 2025 SCC OnLine SC 1969

13) Supreme Court in the case of *S. Ganesharaju (Dead) through Lrs V. Narasamma (Dead) through Lrs* reported in *(2013) 11 SCC 341*, more specifically, paragraph Nos. 12 and 13, of the said judgment held that a liberal construction to the cause of delay should be given. The said paragraphs are reproduced herein below:

12. The expression "sufficient cause" as appearing in Section 5 of the Limitation Act, 1963, has to be given a liberal construction so as to advance substantial justice. Unless the respondents are able to show malafides in not approaching the court within the period of limitation, generally as a normal rule, delay should be condoned. The trend of the courts while dealing with the matter with regard to condonation of delay has tilted more towards condoning delay and directing the parties to contest the matter on merits, meaning thereby that such technicalities have been given go-by.

13. The rules of limitation are not meant to destroy or foreclose the right of parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly.

14) Bombay High Court in the judgment of *Kamalbai Narasaiyya Shrimal and Another Vs. Ganpat Vithalrao Gavare* reported in *2007 (1) MH. L.J. 807*, paragraph Nos.13 and 15 has held:

13. The factual position is manifestly clear on bare perusal of the application for condonation filed by the petitioners before the learned District Judge. The only relevant statement in the application is thus:

"The delay caused in preferring the appeal is of six months. The caused delay is not intentional one. The appellants are poor and helpless persons. If the delay is not condoned appellant may cause irreparable loss which cannot be compensated in terms of money. The suit was for recovery of possession and present appellants are tenants. If the delay is not condoned then appellants will become shelterless."

15. The expression "sufficient cause" cannot be erased from section of the Limitation Act by adopting excessive liberal approach which would defeat the very purpose of section 5 of the Limitation Act. There must be some cause which can be termed as a sufficient one for the purpose

of delay condonation. I do not find any such “sufficient cause” stated in the application and as such no interference in the impugned order is called for.”

15) Considering the law as laid down by the above mentioned judgments and the facts of the present proceeding and the applicant is voluntarily ready to pay a cost of Rs.5,00,000/-, I am of the view that the delay can be condoned.

16) As far as the judgment of ***Shivamma*** (supra) is concerned, the said judgment is dealing with delay of 3966 days. There was no connected second appeal which is within time, therefore, there is no need to club these matters and to be heard together.

17) Considering the law as laid down in the above mentioned judgments and the facts of the present case where first appeal filed by the defendant no.18 is within time and the impugned judgment in the said first appeal and in the present proceeding is one and the same, this interim application deserves to be allowed, subject to cost to be paid.

18) Interim Application stands **allowed** in terms of prayer clause (b), subject to cost of Rs.500,000/- to be paid within a period of two weeks to the Deepstambh Foundation, Manobal, Kusumba, District – Jalgaon – 425 003, having NGO Registration No. AABTD7731N, CSR

NO. CSR00027855, from the date of uploading this order on the official website of the Bombay High Court.

19) The details of the bank Account for payment of cost are as under:-

Name	: Deepstambh Foundation, Manobal, Kusumba, District – Jalgaon – 425 003, having NGO Registration No. AABTD7731N, CSR NO. CSR00027855
Bank Name	: ICICI Bank
Account No.	: 037501008110
IFSC Code	: ICIC0000375
Branch	: Jalgaon

(Rajesh S. Patil, J.)