

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 5398 OF 2025

Nirlon Limited]
A public listed company having its]
Registered office at Pahadi Village,]
Nirlon Knowledge Park, off the]
Western Express Highway, Goregaon]
Mumbai-400 063]
Through its authorized signatory]
Mr. Jasmin K. -Bhavsar, Company]
Secretary & Vice President (Legal)]
an adult Indian Inhabitant, aged 53]
years, Occ: Service, having his office]
at Nirlon Ltd; Pahadi Village,]
Nirlon Knowledge Park, off the Western]
Express Highway, Goregaon (East)]
Mumbai-400 063]

...Petitioner

V/s.

1. Janhavi Sitaram Desai]
An adult, Indian, Inhabitant,]
Age : 41 Years, Occ-Business,]
having her office address]
at Tiecion House, 05th Floor, Dr. E]
Moses Road, Mahalaxmi,]
Mumbai- 400 011]

2. The Collector (M.S.D)]
Having its office address at 10th Floor,]
Administrative Building, Government]
Colony, Bandra (East),]
Mumbai-400051]

3. The District Superintendent of]
Land Records (M.S.D)]
Having its office address at 10th Floor,]
Administrative Building, Government]
Colony, Bandra (East),]
Mumbai-400051]

4. Additional Commissioner Konkan	]	
Division, Mumbai	]	
Having its office address as 15,	]	
Madame Cama Road, Near City	]	
Civil Court, Fort, Mumbai 32	]	
5. The State of Maharashtra	]	
Through Government Pleader	]	
having his/her Office at Hon'ble	]	
Bombay High Court	]	... Respondents

Dr. Virendra Tulzapurkar Sr. Adv a/w Mr. Rahul Khedkar, Mr. Vinod Kothari, Mr. Kshitij Parekh i/by Apex Law Partners for the Petitioner.

Mr. Hasan Sayed a/w Mr. R.A. Shaikh, Ms. Swati Margi for the Respondent No.1.

Mr. Prashant Kamble, AGP for the Respondent No 2 to 5.

CORAM : KAMAL KHATA, J.
RESERVED ON : 9th February 2026.
PRONOUNCED ON : 13th March 2026.

JUDGEMENT:

1. By the present Writ Petition, the Petitioner challenges the Order dated 8th April 2024 ("impugned Order") passed by the Additional Commissioner Konkan Division ("Respondent No. 4") in Appeal /DESK /LND / 59/ 2023 ("the Appeal") along with the Application for condonation of delay ("delay application") whereby the Respondent No. 4 condoned delay of 13 years and 07 months and 21 days in filing an Appeal.

Brief Facts

2. Nanubhai Industries Private Limited (Nirlon Limited) – the Petitioner originally acquired the following piece and parcel of lands (“said property”) by virtue of a Sanad document / Agreement dated 18th August 1962.

Village	Survey No.	Hissa No.	Area		
			Acres	Gunthas	Ares
Goregaon	12 Part		1	25	8
	13		4	24	0
	14	1 Part	5	12	0
Pahadi	130	2	0	23	0
	139	2	0	29	8
	140	1 Part	7	14	0
	141 Part		7	3	0
	142 Part		8	4	0

As and by way of abundant precaution, by a registered indenture dated 22nd September 1964 the Petitioner obtained confirmation from the owner Sitaram Narayan Desai (“Sitaram”), the father of Respondent No.1 for valuable consideration.

3. Thereafter, by a registered indenture dated 31st March 1965, the Petitioner purchased from the Respondent no.1’s father Sitaram

Narayan Desai the following additional properties for valuable consideration.

Village	Survey No.	Hissa No.	Area		
			Acres	Gunthas	Ares
Goregaon	11 (Part)		0	184	22384
Pahadi	129	9	0	1	121
	143	11	0	8	968
	142 (Part)		1	8	58.8
	141 Part		7	3	0
	142 Part		8	4	0

4. Accordingly, the Petitioner became a lawful owner of various plots of lands on either side of the two villages i.e. Village Pahadi and Village Goregaon.

5. Nearly forty-four years later, pursuant to a letter dated 26th October 2009, issued by the Collector ("Respondent No. 2"), area correction proceedings were initiated by the City Survey Authorities in respect of the lands at Malad, Pahadi Goregaon, and Goregaon.

6. Pursuant to the survey, the Respondent No. 2 passed an Order dated 2nd March 2010, ("Area Correction Order") thereby effecting necessary area corrections and mutation entries in the revenue records reflecting the ownership of the Petitioners under Sections

106 and 135 of the Maharashtra Land Revenue Code, 1966 (“MLRC”).

7. The Correction Order caused a gap between the two villages admeasuring approximately 1728.5 sq. mtrs. For ease of reference, the scanned copies of coloured sketch of the plans of the said properties are annexed to this Judgment as Plan ‘X’ and ‘X-1’.

8. The plan ‘X’ records the various land parcels purchased by the Petitioner coloured in green, yellow and blue shades. The thick yellow line seen in the center of plan ‘X’ represents the boundary depicting the gap that has arisen between the Village Pahadi, Goregaon and Village Goregaon in view of the Correction Order dated 2nd March, 2010 that for identification is encircled in blue color in the plan ‘X-1’.

9. The Petitioner has been enjoying peaceful and uninterrupted possession of the said lands over four decades and has undertaken substantial development on the said lands and even created third-party rights.

10. In the year 2023, the Respondent No. 1, the daughter of the erstwhile owner Sitaram, claiming some right, title, or interest in the said lands, preferred an Appeal along with the delay application seeking delay of 13 years, 07 months, and 21 days before the

Respondent No. 4, challenging the Area Correction Order dated 2nd March 2010.

11. By an order dated 8th April 2024 (impugned order), the Respondent No. 1's Appeal was allowed and delay condoned. The impugned order is challenged in this Petition.

Submissions on behalf of the Petitioner

12. Dr. Tulzapurkar, anticipating the objection of the Respondent regarding the maintainability of the Petition, submits that a Writ under Article 226 is maintainable where there has been a violation of principle of natural justice. In support of this contention, reliance is placed upon the decision of the Supreme Court in *Whirlpool Corporation v Registrar of Trademarks, Mumbai and Others*¹.

13. Then drawing attention to the impugned order, Dr Tulzapurkar submits that the Respondent No. 4 has failed to record reasons for condoning the delay, which itself constitutes a sufficient ground for entertaining a Writ under Article 226 of the Constitution of India. According to him the Respondent No. 4 has erroneously assumed jurisdiction to entertain the Appeal without first satisfying the foundational requirement of a valid and maintainable application for condonation of delay.

¹ (1998) 8 SCC 1

14. He contended that unless and until a proper application, strictly in compliance with the requirements of Section 5 of the Limitation Act, 1963, is duly preferred and considered, the appellate authority cannot assume jurisdiction to entertain or adjudicate the Appeal on merits.

15. Referring to the delay Application filed by the Respondent No.1, he submits that the explanation offered for the monumental delay was a bald and vague assertion of being "occupied in management" of the property, which by no stretch of imagination constitutes "sufficient cause" within the meaning of Section 5 of the Limitation Act, 1963.

16. The application for condonation of delay was strongly opposed by the Petitioner by filing a detailed Affidavit in Reply, pointing out that the delay was not only inordinate but also wholly unexplained, and that valuable and substantive rights had vested in the Petitioner, which could not be disturbed at such a belated stage.

17. Additionally, in response to the rejoinder of the Respondent No.1, the Petitioner also filed an Affidavit in Sur-Rejoinder to counter new averments made by the Respondent No. 1.

18. The matter was heard on various dates. It is pertinent to

mention that on 17th July 2023, a report was tendered by the City Survey Office. However, a copy of the report was never furnished to the Petitioner, thereby denying the Petitioner an opportunity to rebut its contents, and resulting in a clear violation of the principles of natural justice.

19. Dr. Tulzapurkar further submits that the Respondent No. 4 has failed to exercise jurisdiction in accordance with law while adjudicating the delay application. According to him, Respondent No. 4 has failed to appreciate that Respondent No. 1 did not disclose any legally sustainable or cogent explanation justifying condonation of an inordinate delay of nearly 13 years. In the absence of material demonstrating bonafide conduct, due diligence, or continuous prosecution of remedy, such extraordinary delay could not have been condoned.

Submissions on behalf of Respondent No.1

20. *Per Contra* Mr. Sayyed, learned counsel appearing on behalf of the Respondent No.1, raised a preliminary objection to the maintainability of the present Petition on the ground of availability of an efficacious alternate statutory remedy to the Petitioner.

21. He submits that the impugned order being an interlocutory

order passed in exercise of appellate powers, the Petitioner ought to pursue remedies within the statutory framework rather than invoke extraordinary jurisdiction.

22. The learned Counsel for the Respondent No. 1 further submits that the expression “sufficient cause” under Section 5 of the Limitation Act, 1963, is required to be construed liberally in order to advance substantial justice. According to Respondent No. 1, technicalities of limitation ought not to defeat adjudication on merits, particularly in matters involving property rights.

23. It is further submitted that the delay in filing the appeal was neither intentional nor deliberate. According to Respondent No. 1, circumstances beyond control prevented timely filing, and the explanation furnished before Respondent No. 4 was bona fide. It is contended that the authority was satisfied with the explanation and exercised discretion judiciously.

24. He further submits that while considering an application for condonation of delay, the Respondent No. 4 is entitled to take into account the *prima facie* merits of the appeal, so as to avoid miscarriage of justice. According to Respondent No. 1, the Appeal raises serious issues relating to title and legality of the impugned

revenue entries, and therefore, the authority rightly exercised discretion in condoning the delay.

25. He further submits that refusal to condone the delay would result in grave and irreparable prejudice to the Respondent No.1, whereas no serious prejudice would be caused to the Petitioner if the matter is adjudicated on merits.

26. Lastly, it is lastly submitted that the impugned order is a reasoned order reflecting due application of mind and that no case for interference in writ jurisdiction is made out.

Reasons and Conclusion:

27. Having heard the learned Counsel and upon perusing the record, the following issue arises for consideration:

Whether an erstwhile vendor, or his heirs and legal representatives, can claim any right over a portion of the property within the boundaries of the land sold (in this case, several decades ago), merely because such portion has surfaced pursuant to an area correction carried out by the Collector ?

28. The answer is clearly in the negative.

29. In *Kranti Associates Pvt. Ltd. v. Masood Ahmed Khan*²; the

² (2010)9 SCC 496

Supreme Court, while relying upon *Rana Vanna Bhararhan Thampurarn v. State of Kerala*³, held that the obligation to record reasons being a mandatory attribute of quasi-judicial power, any deviation therefrom renders the decision vulnerable to judicial interference. The recording of reasons constitutes an integral facet of natural justice and ensures transparency, fairness and accountability in decision-making.

30. It would be apposite to reproduce the relevant portion of the impugned order in order to appreciate the conclusion arrived at.

“After going through the papers of Lower Court and arguments for the Appellant and respondent no.3, it reveals that the delay condonation deserves to be allowed for the reason given below -

1. *Appellant has filed an appeal challenging the order passed by the Collector, Mumbai Suburban in case No.मी/कार्या-२क/कलम-१३५/एसआर-३७७, dated 02/03/2010 after a delay of 13 years, 7 months and 21 days before this Tribunal.*

2. *Appellant has stated that she attained majority on 26/01/2003 and in year 2019 while going through the available land records that several properties in villages Pahadi Goregaon, Goregaon and Dinodoshi which were small pockets of land still stood in name of appellant's deceased father i.e. Sitaram Narayan Desai. Since documents from City Survey Office Malad and the Collector Mumbai Suburban were not available and then after Covid-19 epidemic there is a delay in filing the appeal which was not intentional, as stated by appellant. Appellant is not the party*

³ (1979)4 SCC 782

in the impugned order and was not aware of the impugned order.

3. *The principles of law in the matter of condonation of delay under section 5 of the Limitation Act, 1963 are well settled, which requires explanation of delay as stated by respondent no.3 but after going through judgment of Hon. High Court in Ashok alias Balaji Ratan Vs. Nagpur Improvement Trust 2004(6) Bom. In Cr 861, 2004(3) MHLJ 659, dated 08/04/2004 it has been concluded that even if the delay is not condoned in a case event if the applicant is entitled to benefit on merits, the denial of delay prima facie amounts to deprivation of justice. On the other hand, if the delay is condoned, all the parties will be heard and justice will be given to all and also even if the rule requires explanation for each day of delay, even if it is not explained in this way, the decision is to be taken by keeping the merit of the case.....”*

31. A perusal of the impugned order indicates that it merely records the conclusion without disclosing the reasoning process or the basis for arriving at such findings. As per the dictum in *Rana Vanna*, the failure to provide reasons is not just a procedural irregularity but amounts to a breach of principles of natural justice.

32. In *Union of India v Mohan Lal Capoor*⁴ the Supreme Court held that reasons constitute the rationale underlying the decision and explain the nexus between the factual matrix and the conclusions drawn, thereby ensuring the transparency, justness, fairness, and reasonableness in the decision-making process.

33. In the present case, the Respondent No. 4 has failed to deal with

⁴ (1973)2 SCC 836

the specific contentions raised by the Petitioner. The order merely records a conclusion without disclosing the process of reasoning. Such an approach is contrary to the principles of natural justice. The absence of reasons renders the order as arbitrary and unsustainable. Consequently, such a non-speaking order cannot be sustained in law and is liable to be set aside on the ground of violation of natural justice.

34. I find merit in the contention of Dr. Tulzapurkar that the Respondent No. 4 has failed to exercise jurisdiction in accordance with law while adjudicating the delay application. Respondent No. 4 failed to appreciate that Respondent No. 1 had not disclose any legally sustainable or cogent explanation justifying condonation of an inordinate delay of nearly 13 years. In the absence of material demonstrating bonafide conduct, due diligence, or continuous prosecution of remedy, such extraordinary delay could not have been condoned.

35. In this regard, the only justification sought by Mr. Sayed the learned Counsel appearing for the Respondent No.1, is a vague assertion that Respondent No. 1 was “occupied in management” of the property. Such an assertion neither constitutes sufficient cause nor demonstrates due diligence within the meaning of Section 5 of

the Limitation Act, 1963.

36. In *Balwant Singh (dead) vs. Jagdish Singh*⁵ the Supreme Court held that while considering an application for condonation of delay, the Court must balance the need advance "substantial justice" with the statutory requirement of sufficient cause. In para 17 of the judgement, the Court categorically held that the party seeking condonation must establish vigilance and the absence of negligence, which Respondent No. 1 has miserably failed to demonstrate.

37. The Court further emphasized that the expression "sufficient cause" cannot be construed so liberally as to defeat the law of limitation, which is substantive in nature and carries definite consequences on accrued rights. In paragraph 26, the Court reiterated that the explanation for delay must be reasonable, plausible and supported by material particulars, and that courts cannot condone delay merely on sympathetic considerations. Further, in paragraphs 37 and 38, the Supreme Court held that where delay is inordinate and remains unexplained, condonation would amount to rendering the law of limitation otiose. A liberal approach does not imply a licence to disregard statutory timelines, particularly when valuable rights have accrued in favour of the

⁵ (2010)8 SCC 685

opposite party.

38. The delay of approximately 13 years is *ex facie* inordinate. No material particulars have been placed on record by Respondent No. 1 to demonstrate continuous diligence or bonafide prosecution of the remedy. There is no explanation accounting for the entire period of delay, much less for each segment thereof. The impugned order does not record any specific finding that the explanation furnished was bonafide or that Respondent No. 1 was free from negligence or inaction. The condonation of such delay directly prejudices vested and crystallized rights of the Petitioner and third parties, which the law of limitation seeks to protect. Accordingly, the condonation of delay is contrary to binding precedent and constitutes an arbitrary exercise of discretion.

39. I also find merit in the next contention of Dr. Tulzapurkar that the Respondent No. 4 erroneously assumed jurisdiction to entertain the appeal without first satisfying the foundational requirement of a valid and maintainable application for condonation of delay. Unless and until a proper application, strictly in compliance with the requirements of Section 5 of the Limitation Act, 1963, is duly preferred and considered, the appellate authority cannot assume jurisdiction to entertain or adjudicate the appeal on merits.

40. In *Ballumal A. Jaisingh v. M/s J.J. Builders & Ors.*⁶, it has been held that the absence of an application for condonation of delay deprives the Court of jurisdiction to condone the delay, thereby rendering the impugned order a nullity and liable to be set aside.

41. In *Whirlpool Corporation* (supra) the Supreme Court held that the existence of alternate remedy does not operate as a bar where (i) there is a violation of principles of natural justice, (ii) the impugned order suffers from jurisdictional error, or (iii) the proceedings are wholly without jurisdiction. This position has been consistently recognized, inter alia, in *Rashid Ahmed v. Municipal Board, Kairana*⁷, *K.S. Rashid & Son v. Income Tax Investigation Commission*⁸, and reaffirmed in *Whirlpool Corporation*.

42. While it is correct that the decision in *Collector, Land Acquisition, Anantnag v. Mst. Katiji*⁹ supports a liberal approach in considering the applications for condonation of delay, the said judgement cannot be read in isolation or as laying down an unqualified proposition that delay must invariably be condoned.

43. The Supreme Court in *Balwant Singh* (supra) reiterated that the inordinate delay cannot be condoned in a routine manner,

⁶ 2003 3 Mh.L.J. 238

⁷ AIR 1950 SC 163

⁸ AIR 1954 SC 207

⁹ (1987)2 SCC 107

particularly where valuable rights have accrued to the opposite party. The law of limitation is substantive in nature and cannot be rendered otiose under the guise of advancing substantial justice.

44. In my view, the Appeal was filed with an ulterior motive and a speculative intent. The father of Respondent No.1 had, for valuable consideration, sold all the lands delineated in red colour in the plan. The encircled areas arise in the midst of various pieces and parcels purchased in its entirety. The said area does not abut the lands now claimed by the Appellant so as to confer or even suggest any right therein. It is therefore evident that the present claim is raised with a mala fide intent, evidently to harass or extract money. In *K.K. Modi v. K.N. Modi*¹⁰, the Supreme Court held that proceedings instituted with ulterior motives or to harass the opposite party constitute an abuse of the process of the court.

45. It is observed that litigation has increasingly become a tool of blackmail, extortion or a speculative venture akin to purchasing a lottery ticket. The present case is yet another example illustrating this disturbing trend. Such frivolous litigations must be curbed at the threshold. In the absence of specific legislative measures, the imposition of costs remains the most effective tool available to the

¹⁰ (1998) 3 SCC 573

Court to discourage such abuse of the judicial process.

46. In *Dalip Singh v. State of Uttar Pradesh*¹¹, the Supreme Court cautioned that the courts must discourage litigants who approach the court with frivolous or dishonest claims and must deal with such litigation with stern measures.

47. In view of the aforesaid discussion, the following Order is passed:

::ORDER::

1. The Writ Petition is allowed.
2. The Order dated 8th April 2024 passed by the Ld. Additional Commissioner is quashed and set aside.
3. The Respondent shall pay costs of ₹ 5,00,000/- to the Petitioner within a period of four weeks from the date of uploading of this order on the website of the Bombay High Court.
4. List the matter for reporting compliance on 24th April 2026.

(KAMAL KHATA, J.)

¹¹ (2010) 2 SCC 114

48. At this stage, Mr. R.A. Shaikh, learned Advocate for Respondent No.1 request for stay. In view of the aforestated reasons, the request for stay is rejected.

(KAMAL KHATA, J.)

Judgements Relied:

1. Whirlpool Corporation v. Registrar of Trademarks, Mumbai & Ors.1998 SCC 1.
2. Kranti Associates Pvt. Ltd. v. Masood Ahmed Khan, (2010) 9 SCC 496.
3. Rana Vanna Bhararhan Thampurarn v. State of Kerala (1979) 4 SCC 782.
4. Union of India vs. Mohan Lal Capoor (1973) 2 SCC 836.
5. Balwant Singh (dead) vs. Jagdish Singh (2010) 8 SCC 685.
6. Ballumal A. Jaisingh v. M/s J.J. Builders & Ors 2003 3 Mh.L.J.238.
7. Rashid Ahmed v. Municipal Board, Kairana AIR 1950 SC 163.
8. K.S. Rashid & Son v. Income Tax Investigation Commission AIR 1954 SC 207.
9. Collector, Land Acquisition, Anantnag v. Mst. Katiji (1987) 2 SCC 107.
10. K.K. Modi v. K.N. Modi (1987) 2 SCC 107.
11. Dalip Singh v. State of U.P. (1998) 3 SCC 573.

‘Plan X’



NIRLON PLOT WITH SURVEY NUMBERS

 **LAND PURCHASED VIDE AGREEMENT DT. 18 AUG,1962 (SANAD)**

Village	Survey No.	Hissa No.	Area A. G. Aar
Goregaon	12 pt.		1 - 25 - 8
	13		4 - 24 - 0
	14	1 part	5 - 12 - 0
Pahadi	130	2	0 - 23 - 0
	139	2	0 - 29 - 8
	140	1 part	7 - 14 - 0
	141 part		7 - 3 - 0
	142 part		8 - 4 - 0

9/9 (p)

 **LAND PURCHASED VIDE AGREEMENT DT 31MARCH,1965 (NON SANAD)**

Village	Survey No.	Hissa No.	Area A. G. Aar
Goregaon	11(part)		0-18 ½ - 2238.5
Pahadi	129	9	0 - 1 - 121
Pahadi	143	11	0 - 8 - 968
Pahadi	142	part	1 - 8 - 58.8

 **LAND PURCHASED LATER AGREEMENT NOT AVAILABLE (OTHER)**

Village	Survey No.	Hissa No.	Area A. G. Aar
Pahadi	139/1B		5 - 00 - 00
Pahadi	143/10		1 - 12 -0.5
Pahadi	144/4/1 (P)		0 - 20 - 00

THICK YELLOW LINE IS VILLAGE BOUNDARY

NOTE:-S.N.144/4/1(P),143/11/129/9 (P) TAKEN FROM AGREEMENT BUT NUMBER NOT VISIIBLE IN SURVEY PLAN .HENCE ASSUMED AND PLACED .

‘Plan X-1’

GAP BETWEEN VILLAGE AND PAHADI (YELLOW FILL)

