



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.6622 OF 2025

Bhojraj S/O Murlidhar Kubde

Vs.

State Of Maharashtra, Thr. Secretary, Dept. Of Village Development,
Mumbai And Ors.

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. S.U. Bhuyar, Advocate for the Petitioner.
 Ms. P.T. Joshi, AGP for Respondent Nos.1 and 2/State.
 Mr. P.S. Kadam, Advocate for Respondent No.3.

CORAM: PRAFULLA S. KHUBALKAR, J.

DATED : 09th APRIL, 2026

1. Heard learned counsel for the petitioner as well as learned counsels for respondents.
2. The petitioner takes an exception to the Order dated 11.02.2025 passed by the respondent No.2 – The Additional Commissioner, Nagpur Division, Nagpur, by which the application for condonation of delay in filing the Appeal under Section 53(3A) of the Maharashtra Village Panchayat Act, 1958 (for short “the Act”), came to be rejected.
3. It is pointed out that Grampanchayat, Dahegaon (Miskin), Tah. And Dist. Wardha had issued a notice dated 06.04.2021 to the petitioner seeking removal of encroachment from his property. The petitioner had challenged the said notice by filing a civil suit bearing Regular Civil Suit No.97/2021 before the Court of Civil Judge Senior Division, Wardha and after dismissal of the said suit by a judgment and decree dated 10.10.2024, the

petitioner had preferred an appeal under Section 53(3A) of the Act, before the respondent No.2 – Additional Commissioner, Nagpur Division, Nagpur, alongwith an application for condonation of delay.

4. Upon rejection of the application for condonation of delay, the petitioner has filed the instant petition challenging the said order.

5. Learned counsel for the petitioner submits that the delay of three years and six months occurred on account of the fact that the petitioner was bonafide prosecuting the civil suit and has now realized that the statutory appeal was required to be filed. He submits that the reasons mentioned in the application for condonation of delay constitute sufficient cause and application was required to be allowed.

6. Learned counsel for the respondent No.3 opposes the petition and vehemently submitted that the petitioner has failed to invoke the appellate jurisdiction at the relevant time and the civil suit was dismissed on merits and therefore, the petitioner cannot take advantage of the period consumed during the pendency of the civil suit. He therefore, submits that the petitioner was not diligent in filing the appeal and therefore, the application for condonation of delay deserved to be rejected.

7. While considering the controversy, it has to be noted that the petitioner had filed the statutory appeal under Section 53(3A) of the Act before the respondent No.2, which was accompanied with an application for condonation of delay. In the said application, the petitioner has mentioned the reasons about prosecuting the civil suit bonafidely and accordingly, it has stated that the period of delay of three years six months and twenty days was unintentional. It has also to be noted that the civil suit is

dismissed on merits, however, the petitioner is entitled to raise a challenge to the notice by filing a statutory appeal. Rejection of the application for condonation of delay would deprive the petitioner of an opportunity to contest the appeal on merits. Although, the reasons put forth for condonation of delay are general, however, denying the petitioner an opportunity to contest the appeal on account of delay would amount to miscarriage of justice. The position of law is settled that Courts should adopt a liberal approach while deciding an application for condonation of delay. Hence, in the interest of justice, the delay needs to be condoned, however, by considering the hardship and inconvenience to the respondents, it has to be condoned subject to certain costs.

8. Having regard to the entire controversy, the application for condonation of delay needs to be allowed. Hence, I pass the following Order :-

ORDER

- i) Order dated 11.02.2025 passed by the respondent No.2 rejecting the application for condonation of delay is quashed and set-aside.
- ii) Application filed by the petitioner for condonation of delay before the respondent No.2 is **allowed** subject to cost of **Rs.7,000/- (Rupees Seven Thousand Only)** to be paid by the petitioner to respondent No.3, within a period of two weeks from today.
- iii) After the costs are paid, the petitioner's appeal be registered.
- iv) The writ petition is **disposed of** in above terms.

(PRAFULLA S. KHUBALKAR, J.)