IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CMP(M) No. 2219 of 2025
Reserved on: 28.10.2026
Date of decision: 03.11.2026
Date of uploading on website: 03.11.2026

Kaushalya Devi .....Applicant.

Versus

Land Acquisition Collector (Railways) & others .....Non-applicants.

Coram
The Hon'ble Mr. Justice Sushil Kukreja, Judge.
[1]*Whether approved for reporting?*

For the applicant: Mr. Ajay Sharma, Sr. Advocate, with Mr. Atharv Sharma, Advocate.

For non-applicants No. 1&2: Mr. Manoj Chauhan, Additional Advocate General.

For non-applicant No. 3: Mr. Avinash Jaryal, Senior Panel Counsel.

Sushil Kukreja, Judge.

The instant application has been filed by the applicant-Smt. Kaushalya Devi, who was petitioner before the learned Reference Court (hereinafter referred to as "the applicant"), under Sections 5 and 14 of the Limitation Act, 1963 (for short "the Act") seeking condonation of delay in

[1] *Whether reporters of Local Papers may be allowed to see the judgment?*

filing the accompanying appeal under Section 54 of the Land Acquisition Act, 1894, against award, dated 12.03.2019, in LAC Petition RBT No. 42/5/2003, passed by learned Additional District Judge-II, Una, District Una, H.P. (hereinafter referred to as “the learned Reference Court”), with a prayer to modify the impugned award and to grant interest @ 9% per annum for the first year and @ 15% per annum for the remaining period from the date of taking possession till its payment.

2. As per the applicant, after passing of the impugned award, dated 12.03.2019, she had preferred a petition, under Article 227 of the Constitution of India on 09.08.2019, which was registered as CMP(O) No. 429 of 2019 and it was decided on 18.08.2025. Thereafter, the applicant had filed an application for obtaining certified copy of the decision on 26.08.2025, which was attested on 29.08.2025, as such a delay of six years seven months and 15 days occurred in filing the accompanying appeal. The applicant further averred in her application that the delay, which occurred in filing the accompanying appeal, was bonafide and it occurred owing to the fact that remedy in the wrong court was being pursued by her. She prayed that the

delay in filing the accompanying appeal be condoned and the appeal be heard and decided on merits to secure the ends of justice.

3. Non-applicants No. 1 and 2 contested the application by filing reply, wherein it was averred that the instant application is not maintainable, as the same does not disclose any sufficient cause for condonation of delay. On merits it was averred that applicant had filed an appeal before this Court against award dated 12.03.2019, passed by the learned Trial Court, beyond the limitation period of 30 days. Moreover, filing a case before a wrong forum by the applicant, due to her own negligence or ignorance of law does not amount to good faith. The applicant had preferred the instant appeal before this Court after a lapse of more than six years, thus the delay in filing the same cannot be condoned. As per the replying non-applicants, there is no meritorious question involved in the instant appeal. The replying non-applicants prayed for dismissal of the instant application.

4. Non-applicant No. 3 contested the application by filing its separate reply, wherein it was averred that the applicant had not mentioned the bonafide cause for

condonining the delay, moreover while disposing CMPMO No. 429 of 2019, this Court had granted the permission to withdraw the petition in accordance with law, therefore, the cause of delay should not be accepted to condone the delay, because the applicant remained silent for a long period of time during the pendency of the matter and not even tried to get her matter listed. The replying non-applicant prayed for dismissal of the application.

5. The applicant filed rejoinders to the replies filed by the non-applicants, wherein she reiterated the averments made in her application and refuted the stand taken by the non-applicants.

6. I have heard the learned Senior Counsel for the applicant, learned Additional Advocate General for non-applicants No. 1 and 2 and learned Senior Panel Counsel for non-applicant No. 3 and carefully examined the entire records.

7. Learned Senior Counsel for the applicant contended that the delay is bonafide and, in fact the same has occurred owing to the fact that the remedy in wrong Court was being pursued by the applicant and if the delay is not condoned the meritorious case of the applicant will be

buried under the technicalities of law.

8. Conversely, the learned Additional Advocate General for non-applicants No. 1 & 2/State and learned Senior Panel Counsel for non-applicant No. 3 contended that no satisfactory explanation has been given by the applicant for condoning the delay, as such the application deserves to be dismissed.

9. It is a settled position of law that every case is to be decided considering the facts and circumstances of that case only and there cannot be a straitjacket formula or rule either for condonation of delay or to reject the condonation. The only requirement for condonation of delay is that whether there is 'sufficient cause' for the litigant not to initiate the litigation in prescribed time of limitation. If sufficient cause is shown, delay can be condoned and that term 'sufficient cause' is elastic enough to enable the Courts to apply the law in a manner which sub-serves ends of justice and that there cannot be hard and fast rule laid down for condonation of delay. In the case of Collector, ***Land Acquisition, Anantnag and Another vs. Mst. Katiji & ors.,*** reported in ***(1987) 2 SCC 107*** the term 'sufficient cause' has been explained by the Apex Court to be adequately elastic to enable the courts

to apply the law in a meaningful manner which sub-serves the ends of justice. The Apex Court in the particular case had directed a liberal approach to be adopted on principle and had observed that when substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred. He further submits that there can be no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. The relevant portion of the judgment (supra) is reproduced as under:

> ***"3. The legislature has conferred the power to condone delay by enacting section 5 of the Indian Limitation Act of 1963 in order to enable the courts to do substantial justice to parties by disposing of matters on 'merits'. The expression "sufficient cause" employed by the legislature is adequately elastic to enable the courts to apply the law in a meaningful manner which subserves the ends of justice-that being the life-purpose for the existence of the institution of courts. It is common knowledge that this Court has been making a justifiably liberal approach in matters instituted in this Court. But the message does not appeal to have percolated down to all the other courts in the hierarchy. And such a liberal approach is adopted on principle as it is realized that:***
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> 1. ***Ordinarily a litigant does not stand to benefit by lodging an appeal late.***
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> 2. ***Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.***
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> 3. ***"Every day's delay must be explained" does not mean that a pedantic approach should be made. Why not every hour's delay, every second's delay? The doctrine must be applied in a rational common sense pragmatic manner.***

> ***4. When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.***
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> ***5. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk.***
>
> ***6. It must be grasped that judiciary is respected not on account of its powers to legalise injustice on technical grounds but because it is capable of removing injustice and is expected to do so."***
>
> ***... ... ...***

10. In the judgment rendered by the Hon'ble Apex Court in ***Ram Nath Sao @ Ram Nath Sahu & Ors. vs. Gobardhan Sao & Ors., (2002) 3 SCC 195,*** wherein, at paragraph-12, it has been held that "sufficient cause" within the meaning of Section 5 of the Act or Order 22 Rule 9 of the Code or any other similar provision should receive a liberal construction so as to advance substantial justice when no negligence or inaction or want of bona fides is imputable to a party. The relevant portion of the judgment (supra) is reproduced as under:

> ***"12. Thus it becomes plain that the expression "sufficient cause" within the meaning of Section 5 of the Act or Order 22 Rule 9 of the Code or any other similar provision should receive a liberal construction so as to advance substantial justice when no negligence or inaction or want of bona fides is imputable to a party. In a particular case whether explanation furnished would constitute "sufficient cause" or not will be dependent upon facts of each case. There***

> ***cannot be a straitjacket formula for accepting or rejecting explanation furnished for the delay caused in taking steps. But one thing is clear that the courts should not proceed with the tendency of finding fault with the cause shown and reject the petition by a slipshod order in over- jubilation of disposal drive. Acceptance of explanation furnished should be the rule and refusal, an exception, more so when no negligence or inaction or want of bona fides can be imputed to the defaulting party. On the other hand, while considering the matter the courts should not lose sight of the fact that by not taking steps within the time prescribed a valuable right has accrued to the other party which should not be lightly defeated by condoning delay in a routine-like manner. However, by taking a pedantic and hypertechnical view of the matter the explanation furnished should not be rejected when stakes are high and/or arguable points of facts and law are involved in the case, causing enormous loss and irreparable injury to the party against whom the lis terminates, either by default or inaction and defeating valuable right of such a party to have the decision on merit. While considering the matter, courts have to strike a balance between resultant effect of the order it is going to pass upon the parties either way."***

11. As per the Judgment of the Apex Court in the case of ***Esha Bhattacharjee vs. Managing Committee of Raghunathpur Nafar Academy & ors.,*** reported in ***(2013) 12 SCC 649,*** that the term 'sufficient cause' should be understand in proper spirit, since the term is basically elastic and has to be applied in the proper perspective, that substantial justice being paramount and pivotal, the technical considerations should not be given undue and uncalled for emphasis. The Apex Court had also held that the adherence to strict proof should not affect public justice or cause public mischief because the courts are required to be vigilant so that in the ultimate eventuate, there is no real failure of justice. The Apex Court had also noticed the distinction

between inordinate delay and a delay of short duration of few days and had observed that the second calls for a liberal delineation.

12. Thus, the law on the issue can be summarized to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the court within limitation and “sufficient cause" should receive a liberal construction so as to advance substantial justice The Apex Court has time and again reiterated that there should be a liberal, pragmatic and justice-oriented approach when dealing with an application for condonation of delay and the issue of limitation is to be taken liberally and not to be taken in hyper technical manner.

13. In the instant case, the impugned award was passed on 12.03.2019 and after passing of the impugned award, on 09.08.2019, a petition under Article 227 of the Constitution of India was filed by the applicant, which came to be registered as CMPMO No. 429 of 2019 and the said petition was decided on 18.08.2025. Thereafter, the applicant applied for the certified copy on 26.08.2025, which

was attested on 29.08.2025. The perusal of the record reveals that the delay has occurred on account of the fact that the applicant was pursuing wrong remedy. Otherwise also, the perusal of the impugned award reveals that the applicant has got a very good case on merits, as the learned Reference Court has not awarded statutory interest to the applicant @ 9% per annum for the first year and thereafter @ 15% per annum till the date of the payment/deposit of the amount of compensation.

14. In ***Inder Singh vs. The State of Madhya Pradesh, 2025 SCC Online SC 600,*** the Hon'ble Supreme Court held that if in a particular case, the merits have to be examined, it should not be scuttled merely on the basis of limitation. The relevant para of the judgment (supra) is as under:

> ***"14. There can be no quarrel on the settled principle of law that delay cannot be condoned without sufficient cause, but a major aspect which has to be kept in mind is that, if in a particular case, the merits have to be examined, it should not be scuttled merely on the basis of limitation."***

15. Therefore, applying the law laid down by the Apex Court to the facts of the present case, this court is satisfied that the applicant has been able to render a satisfactory explanation for condonation of delay, as occurred in filing the present appeal. Although there might

be some weight in the submissions made by the learned counsel/Senior Panel Counsel appearing for the non-applicants that delay may not be condoned as a matter of course in the present case, however, this Court finds that a liberal approach and acceptance of the explanation given by the applicant deserves to be considered. This Court is also of the view that in case delay is not condoned, the same would result in miscarriage of justice, as the applicants are seeking modification of the impugned award only to the extent that statutory interest @ 9% per annum for the first year and thereafter @ 15% per annum from the date of the award till the date of the payment/deposit of the amount of the compensation, has not been awarded by the learned Reference Court for which they are entitled under the statute.

16. Accordingly, for the reasons aforesaid, the present application is allowed and delay in filing the appeal is condoned. Consequently, the Registry is directed to register the instant appeal.

The application stands disposed of.

(Sushil Kukreja)
Judge

3rd November, 2026
(virender)