IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CMP(M) No.2133 of 2024
Reserved on:30.10.2026
Date of decision: 05.11.2026

Yugal Kishore ...Applicant

Versus

Jiwan Lal ...Respondent.

Coram:

The Hon'ble Mr. Justice Romesh Verma, Judge.
Whether approved for reporting?[1]

For the applicant : Mr.Neeraj Gupta, Senior Advocate with Mr. Ajeet Pal Singh Jaswal, Advocate.

For the respondent : Mr. Bhuvnesh Sharma, Senior Advocate with Ms. Vishali Lakhanpal, Advocate.

Romesh Verma, Judge

The present application under Section 5 of the Limitation Act has been filed for condonation of 7 years, 9 months and 2 days' delay in filing the instant Regular Second Appeal.

2. As per the averments as made in the application, the learned Civil Judge (Senior Division), Mandi, District Mandi, H.P., vide judgment and decree dated 18.07.2014, in a suit filed by the respondent for recovery of Rs.6,14,526/- on account of the capital amount invested by the plaintiff in the partnership business run by the parties, which stood dissolved with effect from 31.03.2005, decreed the suit for a sum of Rs. 6,14,526/- along with interest at the rate of 9%

Whether reporters of Local Papers may be allowed to see the judgment?

per annum from the date of institution of the suit till total realization of the entire decretal amount.

3. Thereafter, the defendant/present applicant preferred an appeal in the Court of learned Additional District Judge (I), Mandi, District Mandi on 23.08.2014. The learned first appellate Court, vide impugned judgment dated 29.11.2016, dismissed the appeal preferred by the present applicant and affirmed the findings returned by the learned trial Court.

4. The plaintiff/respondent had instituted the suit for recovery of Rs. 6,14,526/- against the defendant on the ground that the parties are real brothers and entered into a partnership business under the name and style of 'Pandit Brothers', Ram Nagar, Mandi town, H.P., vide partnership deed dated 01.04.2001. It was contended by the plaintiff in the suit that some dispute arose inter se the parties, therefore, the plaintiff deemed it proper to withdraw from the partnership business to avoid any sort of confrontation or bitterness on account of blood relations. Consequently, the partnership business stood dissolved between the parties through a dissolution deed dated 31.03.2005 with effect from 31.03.2005.

5. As per the case as set up by the plaintiff before the learned trial Court, he had invested a capital amount in the said partnership business amounting to Rs. 5,14,526/- plus Rs.1,00,000/- = Rs. 6,14,526/- in total. In terms of Clause 5 of the

dissolution deed, the defendant had undertaken the liability of paying back the capital amount so invested by the plaintiff in the partnership business, as verified in the balance sheet of 'Pandit Brothers, Mandi in the auditor's report as on 31.03.2005. It was submitted by the plaintiff that although a period of more than one year had elapsed since the dissolution of the partnership business, the defendant failed to repay the capital amount invested by the plaintiff, which upon dissolution had been undertaken by the defendant to be repaid through bank cheques. Despite repeated requests made to the defendant to pay the suit amount in discharge of his liability towards the plaintiff in terms of the undertaking, he failed to pay the same. In these circumstances, the plaintiff instituted the suit for recovery of Rs. 6,14,526/- on account of the capital amount invested by him in the dissolved partnership business, along with future interest at the rate of 9% per annum from the date of institution of the suit till realization of the entire decretal amount.

6. The suit was resisted by the present applicant/defendant by filing written statement wherein preliminary objections with respect to maintainability, enforceability, cause of action, etc. were raised. On merits, all the averments made in the plaint were specifically refuted and denied.

7. The learned trial Court framed issues in the matter on 31.05.2008 and directed the parties to adduce evidence in support of

their respective contentions. Vide judgment and decree dated 18.07.2014, the learned Civil Judge (Senior Division), Mandi, District Mandi, decreed the suit filed by the plaintiff for a sum of Rs. 6,14,526/- along with interest at the rate of 9% per annum from the date of institution of the suit till total realization of the entire decretal amount. Thereafter, the appeal preferred by the present applicant was dismissed by the learned Additional District Judge(I), Mandi, on 29.11.2016 in Civil Appeal No. 21/15/2014.

8. Feeling aggrieved by the same, the applicant preferred the instant Regular Second Appeal before this Court on 30.12.2024 along with an application under Section 5 of the Limitation Act, which, as per the report of the Registry, is barred by limitation by 7 years, 9 months and 2 days.

9. In the application filed for condonation of delay, it has been averred that the certified copy of the judgment and decree passed by the first appellate Court was applied on 30.11.2016, which was prepared and delivered on 30.12.2016. It is the case of the applicant that he intended to file an appeal and, for that purpose, contacted his present counsel in the first week of January 2017 to seek a legal opinion. Certified copies of the impugned judgment and decree, along with the judgment of the learned trial Court, were dispatched through post. Upon receipt, the counsel informed the applicant that an appeal could be filed as it involved substantial

questions of law. However, since the Courts were about to close for the winter vacation, the applicant was advised to contact the counsel after the reopening of the Courts. Thereafter, the Courts closed for the winter vacation and the applicant did not follow up with the learned counsel, as he could not recall the further procedure for the presentation of the appeal and remained under the impression that he had in the meantime sent the case file to the learned counsel and the appeal would be filed. According to the applicant, for a considerable period nothing happened and even when notice of the execution petition was received, he remained under the impression that the appeal was pending adjudication before this Court. Subsequently, on account of the COVID-19 pandemic, no further steps could be taken by him. However, once the restrictions were lifted, the applicant inquired into the matter, whereupon it transpired that no appeal had been instituted.

10. The applicant asserted that the delay in filing the instant appeal occurred on account of communication gap between him and his learned counsel, which was neither intentional nor willful, but occurred under unavoidable circumstances. As per the applicant, the reasons assigned in the application constitute good and sufficient grounds for condoning the delay in filing the appeal, which deserves to be condoned and thereafter the appeal deserves to be heard and disposed of on its own merits. It has been prayed that the delay of 7

years, 9 months and 2 days in filing the appeal be ordered to be condoned.

11. The application has been vehemently resisted by the non-applicant/respondent by filing a reply, wherein it is asserted that the contents of the application are false, baseless, misleading, and incorrect and that the applicant has concocted an imaginary and unbelievable story. It is submitted that the statement of the applicant was recorded on 28.11.2022 in the execution proceedings, wherein the learned counsel for the applicant stated at the Bar that the applicant had already deposited the amount before the High Court and that the case was pending before this Court. The non-applicant had instituted Execution Petition No.1-X/18 before the learned executing Court for implementation and enforcement of the judgment and decree passed by the learned trial Court, which had been affirmed by the learned first appellate Court. It is further submitted that the applicant misstated before the executing Court on 11.12.2024 that the decretal amount had been deposited before this Court and that the case was pending before the High Court.

12. It is further reiterated that under the pretext of the alleged pendency of the matter before this Court, the applicant sought repeated adjournments, and the execution proceedings were delayed on the strength of a false narrative set up merely to explain the inordinate, intentional, and willful delay. It has been highlighted that the

execution petition had been preferred in January 2018, yet for more than seven years, no steps whatsoever were taken by the applicant to assail the impugned judgment passed by the learned first appellate Court.

13. It is also stated that the COVID-19 period came to an end almost in the last month of 2021, yet even thereafter, no steps were taken by the applicant for more than three years to file the appeal. The execution proceedings have been pending before the executing Court for more than 7 years and the applicant has been misleading the executing Court by stating that the decretal amount has been deposited before this Court. As per the non-applicant, since the applicant has not approached the Court with clean hands, has suppressed material facts and has tried to hoodwink this Court and the learned executing Court, the application for condonation of the inordinate and unexplained delay deserves to be rejected.

14. Lastly, it has been contended by the learned senior counsel for the non-applicant that no material has been placed on record by the applicant in order to demonstrate what steps were taken by him from the date of passing of the impugned judgment by the learned first appellate Court on 29.11.2016. It has further been stated that the applicant was served in the matter on 22.02.2018. Even thereafter, no steps were taken for assailing the judgment. Therefore, the entire averments as made in the application are a concocted story

and cannot be believed, being devoid of any merit and basis. The non-applicant has prayed for the dismissal of the application as highly belated.

15. The applicant filed a rejoinder to the reply filed by the non-applicant, reiterating the averments made in the application and denying the contentions raised in the reply. It has been stated in the rejoinder that an amount of Rs. 13,15,085/- was deposited in the Registry of this Court on 25.02.2025.

16. Learned Senior Counsel appearing for the applicant has contended that the applicant has made out a case for condonation of delay in filing the appeal and, therefore, the delay of 7 years, 9 months and 2 days deserves to be condoned in the interest of justice. He submits that the appeal could not be filed on account of a bona fide communication gap between the applicant and his counsel, as also due to the COVID-19 pandemic. He contends that the delay is neither intentional nor willful and that the respondent/non-applicant can be adequately compensated by imposing suitable costs.

17. On the other hand, the learned senior counsel for the non-applicant has submitted that there is a huge, unexplained and inordinate delay in filing the present appeal and no material or document has been placed on record to demonstrate what steps were taken by the applicant after the passing of the judgment by the learned first appellate Court way back in 2016. It has been submitted that, for

the sake of argument, even if it is presumed that on account of a communication gap the appeal was not preferred immediately after the judgment of the learned first appellate Court, what prevented him from instituting the appeal when he was served in the execution petition preferred by the non-applicant and counsel appeared for the present applicant on 22.02.2018 before the learned Senior Civil Judge, Mandi in the execution petition filed by the present respondent/decree holder for enforcement of the decree.

18. I have heard learned counsel for the parties and have also perused the record carefully.

19. In the present case, the non-applicant/respondent had instituted a suit for recovery of Rs. 6,14,526/- on account of the capital amount invested by him in the partnership business run by the parties, which stood dissolved with effect from 31.03.2005. The suit was duly contested by the present applicant. After evidence was adduced by the respective parties, the learned trial Court, vide judgment and decree dated 18.07.2014, decreed the suit for a sum of Rs. 6,14,526/- along with interest at the rate of 9% per annum from the date of institution of the suit till realization of the entire decretal amount.

20. Feeling aggrieved, the applicant assailed the said judgment and decree before the learned first appellate Court, but remained unsuccessful.

21. The impugned judgment was passed by the learned Additional District Judge(I), Mandi, on 29.11.2016, whereas the present appeal came to be filed on 30.12.2024, after elapse of more 7 years, 9 months and 2 days.

22. A perusal of the application reveals that the applicant claims to have contacted his counsel in the first week of January 2017 to seek a legal opinion and certified copies of the impugned judgment and decree along with the trial court judgment were sent through post. Upon receipt thereof, the learned counsel reportedly informed the applicant that an appeal could be preferred as it involved substantial questions of law; however, as the Courts were about to close for the winter vacation, he was advised to contact the counsel after the reopening of the Courts. After the reopening of the Courts, the applicant failed to contact the learned counsel, purportedly because he could not recall the further procedure required for the presentation of the appeal and remained under the impression that the file had already been transmitted and the appeal would be filed. It is further pleaded that on account of the COVID-19 pandemic, no action was taken, and only after the pandemic was over, he contacted the counsel, whereupon it was revealed that the appeal had not been presented.

23. This Court is of the considered opinion that the explanation given in the application is vague, indefinite and cryptic. The record shows that the judgment came to be passed by the learned

Additional District Judge on 29.11.2016, and the non-applicant, in order to execute the judgment and decree passed by the courts below, filed Execution Petition No. 1-X/18 before the learned trial Court. The executing Court issued notices in the said execution on 03.01.2018. The counsel for the present applicant appeared before the executing Court on 22.02.2018 and sought time to file a reply. It can also be gathered from the record that thereafter, on different dates, time was sought by the learned counsel for the present applicant for filing a reply. On 25.08.2022, warrant of attachment was issued against the property of Jugal Kishore for recovery of the decretal amount. As on the said date, it was observed by the learned trial court that none had put in an appearance on behalf of the JD/applicant and since the JD had not filed objections, the necessary warrants were issued.

24. On 28.11.2022, learned counsel for the JD/applicant appeared before the executing court and made a statement at the bar that his client had already deposited the amount before the High Court, and that the case was pending before this Court. Thereafter, the case was listed on 28.02.2023. Subsequently, on different dates, the matter was listed before the learned executing court and the record reflects that thereafter the applicant/JD also changed his counsel.

25. On 11.12.2024, learned counsel for the applicant stated that the JD had deposited the decretal amount before the High Court, whereupon learned counsel was directed to tender the record qua the

same. A perusal of the case file shows that the conduct of the applicant is not aboveboard and the explanation which has been given in the application cannot be presumed to be correct. Though, the applicant was duly served in the execution proceedings, represented by counsel and repeated opportunities were availed to file a reply, but, after four years from the date of filing of the execution petition, a statement was made on 28.11.2022 that the decretal amount stood deposited before this Court and that the case was pending before the High Court. This demonstrates that the applicant has suppressed material facts not only from the learned executing court but also from this Court.

26. The impugned judgment was passed in the year 2016 and once the applicant was duly served in the execution proceedings in the year 2018, there is no explanation whatsoever in the application as to what prevented him from filing the instant regular second appeal. Along with the application, no documentary evidence has been placed on record to show what steps were taken by the applicant, either by contacting his counsel telephonically or by sending written communication inquiring about the filing or pendency of the appeal. The explanation offered in the application that certified copies of the judgment and decree passed by the learned trial court and the learned first appellate court were sent through post to the learned counsel, whereafter the applicant remained under the impression that the

appeal had been filed is imaginary and unacceptable. It is not the case of the applicant that he visited Shimla for the purpose of filing the appeal and, after appending his signatures to the pleadings/power of attorney, he was under an impression that the appeal has been filed. It cannot be presumed that by merely dispatching certified copies of the judgments through post, the appeal would stand filed.

27. This Court is in agreement with the contention raised by the learned Senior Counsel for the respondent that the endeavour of the applicant is merely to prolong the litigation in perpetuity on one pretext or the other.

28. It has been contended by the learned Senior Counsel for the applicant that the applicant has a strong prima facie case on merits and while determining the application, the merits of the case would show that he has an arguable case and in that event the application deserves to be allowed.

29. Learned Senior Counsel has placed reliance upon the judgment of the Hon'ble Apex Court in ***Special Leave Petition (Civil) No. 6145 of 2024, titled Inder Singh v. State of Madhya Pradesh, decided on 21.03.2025***, which reads as follows:

> “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.

> '12. Definition.—In this part, unless the context otherwise requires, "the State" includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India."

30. To counter the said submission of the learned Senior Counsel, learned counsel for the respondent has also placed reliance upon the judgment of the Hon'ble Apex Court passed in ***Special Leave to Appeal (C) No. 9719 of 2020, titled H. Guruswamy and others v. A. Krishnaiah since deceased by LRs***, decided on 08.01.2025, wherein the Hon'ble Apex Court held that while considering a plea for condonation of delay, the court must not commence with the merits of the main matter. The court owes a duty to first ascertain the bona fides of the explanation offered by the party seeking condonation. It is only when sufficient cause is assigned by the litigant and the opposition from the other side is equally balanced that the court may bring into aid the merits of the matter for the purpose of condoning delay. The Hon'ble Apex Court observed that no court should keep the sword of Damocles hanging over the head of a litigant for an indefinite period of time. The relevant extract of the judgment reads as follows:

> *"16. The length of the delay is definitely a relevant matter which the court must take into consideration while considering whether the delay should be condoned or not. From the tenor of the approach of the respondents herein, it appears that they*

> *want to fix their own period of limitation for the purpose of instituting the proceedings for which law has prescribed a period of limitation. Once it is held that a party has lost his right to have the matter considered on merits because of his own inaction for a long, it cannot be presumed to be non-deliberate delay and in such circumstances of the case, he cannot be heard to plead that the substantial justice deserves to be preferred as against the technical considerations. While considering the plea for condonation of delay, the court must not start with the merits of the main matter. The court owes a duty to first ascertain the bona fides of the explanation offered by the party seeking condonation. It is only if the sufficient cause assigned by the litigant and the opposition of the other side is equally balanced that the court may bring into aid the merits of the matter for the purpose of condoning the delay.*
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> *17. We are of the view that the question of limitation is not merely a technical consideration. The rules of limitation are based on the principles of sound public policy and principles of equity. No court should keep the 'Sword of Damocles' hanging over the head of a litigant for an indefinite period of time."*

31. Similarly, the Hon'ble Apex Court in ***SLP (C) No. 17575 of 2023, titled Thirunagalingam v. Lingeshwaran and another***, decided on 13.05.2025 held that while considering a plea for condonation of delay, the first and foremost duty of the court is to ascertain the bona fides of the explanation offered by the party seeking condonation, rather than embarking upon the merits of the main matter. Only when sufficient cause or plausible reasons are assigned for the delay and the opposition from the other side stands on equal footing, may the court consider the merits of the main matter

for the purpose of condonation of delay. The Hon'ble Apex Court held as follows:

> *"31. It is a well-settled law that while considering the plea for condonation of delay, the first and foremost duty of the court is to first ascertain the bona fides of the explanation offered by the party seeking condonation rather than starting with the merits of the main matter. Only when sufficient cause or reasons given for the delay by the litigant and the opposition of the other side is equally balanced or stand on equal footing, the court may consider the merits of the main matter for the purpose of condoning the delay.*
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> *32. Further, this Court has repeatedly emphasised in several cases that delay should not be condoned merely as an act of generosity. The pursuit of substantial justice must not come at the cost of causing prejudice to the opposing party. In the present case, the respondents/defendants have failed to demonstrate reasonable grounds of delay in pursuing the matter, and this crucial requirement for condoning the delay remains unmet.*
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> *33. Therefore, in the case at hand, once it has been established that the reasons provided for condoning the delay in the application filed are not sufficient, we are not inclined to go into the merits of the contentions raised by the learned counsel of Respondents regarding Section 14 of the Limitation Act, 1963."*

32. In view of the settled dictum and exposition of law laid down by the Hon'ble Apex Court, it is manifest that the court owes a duty to first ascertain the bona fides of the explanation offered by the party seeking condonation. As discussed hereinabove, the applicant has failed to establish the bona fides of the explanation set forth in the

application. The explanation for not filing the instant appeal for more than seven and a half years is neither plausible, reasonable nor justifiable.

33. As observed earlier, there is no document on record to substantiate or establish that the applicant was vigilant while pursuing the matter or in preparing the appeal before this Court. Save and except the bald assertions averred in the application, no material or document has been placed on record to demonstrate or establish the bona fide/sufficient cause on behalf of the applicant. The explanation that since certified copies of the judgments of the learned trial court and the first appellate court were sent to the learned counsel, the applicant was under the impression that the appeal had been filed, is neither believable nor acceptable. The delay in the case in hand is huge, inordinate, and unexplained. Therefore, this Court will not come to the aid of a party that has not approached the Court with bona fide reasons and sufficient cause.

34. Learned senior counsel for the respondent has also placed reliance upon the judgment of the Hon'ble Apex Court in **SLP (Civil) Nos. 935–936 of 2021, titled *Rajneesh Kumar and another v. Ved Prakash***, wherein the Hon'ble Apex Court observed that over a period of time, a tendency on the part of litigants to blame their advocates for negligence and carelessness in attending the court proceedings has become prevalent. Even assuming for a moment that

the concerned advocate was careless or negligent, that by itself cannot constitute a ground to condone a long and inordinate delay, as a litigant owes a duty to remain vigilant of his own rights and is expected to be equally vigilant about the judicial proceedings pending in court initiated at his instance. The litigant, therefore, cannot be permitted to shift the entire blame onto the advocate and disown him at any time to seek relief. It is well settled that an advocate is the agent of the party, and his acts and statements made within the scope of authority bind the principal, that is, the party engaging him. The Hon'ble Apex Court in the said judgment held as follows:

> *10. It appears that the entire blame has been thrown on the head of the advocate who was appearing for the petitioners in the trial court. We have noticed over a period of time a tendency on the part of the litigants to blame their lawyers of negligence and carelessness in attending the proceedings before the court. Even if we assume for a moment that the concerned lawyer was careless or negligent, this, by itself, cannot be a ground to condone long and inordinate delay as the litigant owes a duty to be vigilant of his own rights and is expected to be equally vigilant about the judicial proceedings pending in the court initiated at his instance. The litigant, therefore, should not be permitted to throw the entire blame on the head of the advocate and thereby disown him at any time and seek relief.*
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> *11. In the aforesaid context, we may refer to a decision of this Court in the case of Salil Dutta v. T.M. & M.C. Private Ltd. reported in (1993) 2 SCC 185, wherein this Court observed as under:-*
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> > *"8. The advocate is the agent of the party. His acts and statements, made within the limits of authority given to him,*

> *are the acts and statements of the principal i.e. the party who engage him. It is true that in certain situations, the court may, in the interest of justice, set aside a dismissal order or an ex parte decree notwithstanding the negligence and/or misdemeanour of the advocate where it finds that the client was an innocent litigant but there is no such absolute rule that a party can disown its advocate at any time and seek relief. No such absolute immunity can be recognized. Such an absolute rule would make the working of the system extremely difficult. The observations made in Rafiq [AIR 1981 SC 1400] must not be understood as an absolute proposition. As we have mentioned hereinabove, this was an on-going suit posted for final hearing after a lapse of seven years of its institution. It was not a second appeal filed by a villager residing away from the city, where the court is located. The defendant is also not a rustic ignorant villager but a private limited company with its head office at Calcutta itself and managed by educated businessmen who know where their interest lies. It is evident that when their applications were not deposed of before taking up the suit for final hearing they felt piqued and refused to appear before the court. May be, it was part of their delaying tactics as alleged by the plaintiff. May be not. But one thing is clear they chose to non-cooperate with the court. Having adopted such a stand towards the court, the defendant has no right to ask its indulgence. Putting the entire blame upon the advocate and trying to make it out as if they S.L.P. (CIVIL) NOS. 935-936 OF 2021 were totally unaware of the nature or significance of the proceedings is a theory which cannot be accepted and ought not to have been accepted."*
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> *(Emphasis supplied)*

35. Generally, the Courts have adopted a very liberal approach in construing the phrase 'sufficient cause' used in Section 5 of the Limitation

Act, in order to condone delay to enable the Courts to do substantial justice and to apply the law in a meaningful manner that sub-serves the ends of justice. Notwithstanding the above, no matter how liberal an approach is adopted in condoning delay, the existence of sufficient cause for not filing the appeal in time is a condition precedent for exercising the discretionary power to condone the delay. The phrases 'liberal approach', 'justice-oriented approach', and cause for the advancement of substantial justice' cannot be employed to defeat the law of limitation so as to allow stale matters or, as a matter of fact, dead matters to be revived and reopened by taking aid of Section 5 of the Limitation Act. It must always be borne in mind, while construing sufficient cause in deciding applications under Section 5 of the Limitation Act, that on the expiry of the period of limitation prescribed for filing an appeal, a substantive right accrues in favour of the decree-holder, and this right ought not to be lightly disturbed.

36. The Hon'ble Apex Court has repeatedly held that even after sufficient cause has been shown by a party for not filing an appeal within time, the said party is not entitled to the condonation of delay as a matter of right, as excusing the delay is within the discretionary jurisdiction vested in the court. The Court, despite the establishment of sufficient cause, may for various reasons refuse to condone the delay, depending upon the bona fides of the party. The liberal approach in considering the sufficiency of cause for delay should not be allowed to override the substantive law of limitation. The concept of a ‘liberal approach’ cannot be employed to jettison

the substantial law of limitation. It is a well-settled principle of law that though limitation may harshly affect a particular party, it has to be applied with all its rigour when the statute so prescribes.

37. The court has no power to extend the period of limitation on equitable grounds. Where a case has been presented in the court beyond limitation, the applicant has to explain to the court what the sufficient cause was which means an adequate and enough reason that prevented him from approaching the court within the period of limitation. No court would be justified in condoning such an inordinate delay by imposing any condition whatsoever.

38. In this regard, the Hon'ble Apex Court in ***Pathapati Subba Reddy (Died) By L.Rs. and others v. The Special Deputy Collector (LA)*, Special Leave Petition (Civil) No. 31248 of 2018**, has observed as follows:

> *"12. In view of the above provision, the appeal which is preferred after the expiry of the limitation is liable to be dismissed. The use of the word 'shall' in the aforesaid provision connotes that the dismissal is mandatory subject to the exceptions. Section 3 of the Act is peremptory and had to be given effect to even though no objection regarding limitation is taken by the other side or referred to in the pleadings. In other words, it casts an obligation upon the court to dismiss an appeal which is presented beyond limitation. This is the general law of limitation. The exceptions are carved out under Sections 4 to 24 (inclusive) of the Limitation Act but we are concerned only with the exception contained in Section 5 which empowers the courts to admit an appeal even if it is preferred after the prescribed period provided the proposed appellant gives 'sufficient cause' for not*

preferring the appeal within the period prescribed. In other words, the courts are conferred with discretionary powers to admit an appeal even after the expiry of the prescribed period provided the proposed appellant is able to establish 'sufficient cause' for not filing it within time. The said power to condone the delay or to admit the appeal preferred after the expiry of time is discretionary in nature and may not be exercised even if sufficient cause is shown based upon host of other factors such as negligence, failure to exercise due diligence etc.

13. It is very elementary and well understood that courts should not adopt an injustice-oriented approach in dealing with the applications for condonation of the delay in filing appeals and rather follow a pragmatic line to advance substantial justice.

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21. In Lanka Venkateswarlu vs. State of Andhra Pradesh & Ors.6, where the High Court, despite unsatisfactory explanation for the delay of 3703 days, had allowed the applications for condonation of delay, this Court held that the High Court failed to exercise its discretion in a reasonable and objective manner. High Court should have exercised the discretion in a systematic and an informed manner. The liberal approach in considering sufficiency of cause for delay should not be allowed to override substantial law of limitation. The Court observed that the concepts such as 'liberal approach', 'justice-oriented approach' and 'substantial justice' cannot be employed to jettison the substantial law of limitation.

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23. In Basawaraj and Anr. vs. Special Land Acquisition Officer 8, this Court held that the discretion to condone the delay has to be exercised judiciously based upon the facts and circumstances of each case. The expression 'sufficient cause' as occurring in Section 5 of the Limitation Act cannot be liberally interpreted if negligence, inaction or lack of bona fide is writ large. It was also observed that even though limitation may harshly affect rights of the parties but it has to be

> *applied with all its rigour as prescribed under the statute as the courts have no choice but to apply the law as it stands and they have no power to condone the delay on equitable grounds.*
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> *24. It would be beneficial to quote paragraph 12 of the aforesaid decision which clinches the issue of the manner in which equilibrium has to be maintained between adopting liberal approach and in implementing the statute as it stands, Paragraph 12 reads as under:*
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> *"12. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The Court has no power to extend the period of limitation on equitable grounds. "A result flowing from a statutory provision is never an evil. A Court has no power to ignore that provision to relieve what it considers a distress resulting from its operation." The statutory provision may cause hardship or inconvenience to a particular party but the court has no choice but to enforce it giving full effect to the same. The legal maxim dura lex sed lex which means "the law is hard but it is the law", stands attracted in such a situation. It has consistently been held that, "inconvenience is not" a decisive factor to be considered while interpreting a statute."*

39. In the present case as well, the explanation and reasons assigned in the application fail to make out a case for condonation of delay in filing the appeal. The applicant has failed to establish sufficient cause for condonation of delay and has equally failed to establish bona fides in the explanation offered in the application. There is a huge and inordinate delay of more than 7 years, 9 months and 2 days in filing the appeal. Therefore, in the absence of any sufficient or plausible grounds, no relief can be granted in favour of the applicant/ appellant in the attending facts and circumstances of the case.

40. A valuable right which has accrued in favour of the respondent/non-applicant cannot be taken away by allowing the application of the applicant, thereby prolonging the agony of the respondent in perpetuity.

41. Consequently, in view of the observations made hereinabove, the present application, being devoid of any merit, is dismissed.

(Romesh Verma)
Judge

5th November, 2026.
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