

2026:PHHC:017430



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

RSA-95-2024 (O&M)
Date of Decision: 05.02.2026

Kanta

... Appellant

Versus

Dharam Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. R.S. Mamli, Advocate, for the appellant.

Mr. Shikhar Sarin, Advocate, for the respondent.

VIKRAM AGGARWAL, J.

CM-264-C-2024

For the reasons given in the application, the same is allowed and the delay of 177 days in re-filing the appeal is condoned.

**CM-266-C-2024 and
RSA-95-2024**

This is defendant's appeal against the judgment and decree dated 08.01.2018 passed by the Court of Additional District Judge, Hisar, allowing the appeal filed by the plaintiff against the judgment and decree dated 04.03.2015 passed by the Court of Civil Judge (Senior Division), Hisar, whereby the suit filed by the plaintiff had been decreed to the extent of alternative relief of refund of the earnest money, thereby

decreeing the suit for specific performance as had been prayed for.

2. The applicant-appellant has filed CM-266-C-2024 seeking condonation of 1121 days' delay in filing the appeal. It has been averred in the application that the suit filed by the plaintiff-respondent was decreed by Courts below *ex parte* and as such, the applicant-appellant had no knowledge of the said fact. It has further been averred that the applicant-appellant came to know about the decision of the appeal by the first Appellate Court, only when the summons in the execution proceedings were issued against her.

3. Learned counsel representing the applicant-appellant, while reiterating the averments made in the application seeking condonation of delay, argues that the delay in filing the appeal, is neither intentional nor willful and rather, the same is due to the circumstances explained above. It is further argued that it is settled law that matters should not be decided on technicalities and rather, the same should be decided on merits.

4. *Per contra*, learned counsel for the non-applicant/respondent, while controverting the submissions made by the counsel for the applicant-appellant, submits that there is a huge delay of more than three years in filing the appeal and that the applicant-appellant has failed to show any sufficient cause to condone the same.

It is also pointed out that the applicant-appellant has duly been appearing in the execution proceedings. Reference has

been made to the orders dated 20.03.2020; 27.09.2021; 03.12.2021; 28.07.2022; 31.10.2022; 25.01.2023 and 11.04.2023 passed by the Executing Court, in this regard.

Learned counsel for the non-applicant/appellant has not been able to controvert or deny the aforesaid fact.

5. I have considered the submissions made by learned counsel for the parties.

6. As per Section 5 of the Limitation Act, if sufficient cause is shown for not preferring an appeal or an application (other than an application under the provisions of Order XXI CPC) within the prescribed period, the same may be admitted after the prescribed period as well. It is by now well settled that the Courts have to adopt a liberal approach while dealing with an application for condonation of delay. It is also well settled that normally, parties should be heard on merits and should not be non suited on technicalities. In the case of **Esha Bhattacharjee versus Managing Committee of Raghunathpur Nafar Academy and others**, 2013 (4) RCR (Civil) 785, the Hon'ble Apex Court culled out the principles with regard to condonation of delay. It was laid down by the Hon'ble Apex Court as under:-

“From the aforesaid authorities the principles that can broadly be culled out are:

- (i) There should be a liberal, pragmatic, justice-oriented, non-pedantic approach while dealing with an application for condonation of delay, for the courts are not supposed to legalise injustice but are obliged to remove injustice.
- (ii) The terms "sufficient cause" should be understood in their proper spirit, philosophy and purpose

regard being had to the fact that these terms are basically elastic and are to be applied in proper perspective to the obtaining fact-situation.

- (iii) Substantial justice being paramount and pivotal the technical considerations should not be given undue and uncalled for emphasis.
- (iv) No presumption can be attached to deliberate causation of delay but, gross negligence on the part of the counsel or litigant is to be taken note of.
- (v) Lack of bona fides imputable to a party seeking condonation of delay is a significant and relevant fact.
- (vi) It is to be kept in mind that adherence to strict proof should not affect public justice and cause public mischief because the courts are required to be vigilant so that in the ultimate eventuate there is no real failure of justice.
- (vii) The concept of liberal approach has to en-capsule the conception of reasonableness and it cannot be allowed a totally unfettered free play.
- (viii) There is a distinction between inordinate delay and a delay of short duration or few days, for to the former doctrine of prejudice is attracted whereas to the latter it may not be attracted. That apart, the first one warrants strict approach whereas the second calls for a liberal delineation.
- (ix) The conduct, behaviour and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go by in the name of liberal approach.
- (x) If the explanation offered is concocted or the grounds urged in the application are fanciful, the courts should be vigilant not to expose the other side unnecessarily to face such a litigation.

- (xi) It is to be borne in mind that no one gets away with fraud, misrepresentation or interpolation by taking recourse to the technicalities of law of limitation.
- (xii) The entire gamut of facts are to be carefully scrutinised and the approach should be based on the paradigm of judicial discretion which is founded on objective reasoning and not on individual perception.
- (xiii) The State or a public body or an entity representing a collective cause should be given some acceptable latitude."

6(i). Still further, in the case of **Basawaraj and another v. Special Land Acquisition Officer**, 2013 (14) SCC 81, the Hon'ble Supreme Court of India was dealing with a judgment of the High Court of Karnataka wherein the appeals filed by the appellants had been dismissed on the ground of limitation. In this case also, the Hon'ble Apex Court examined as to what would amount to a sufficient cause as defined under Section 5 of the Limitation Act. It was held that the expression "sufficient cause" should be given a liberal interpretation to ensure that substantial justice is done but only so long as negligence, inaction or lack of bona fides cannot be imputed to the party concerned. It was held that whether or not sufficient cause had been shown, could be decided on the facts of a particular case and no straitjacket formula was possible. In this case, there was a delay of 5 ½ years in filing the appeal and the High Court of Karnataka had dismissed the appeals on the ground of limitation. The Hon'ble Apex Court, after examining the facts of the case and law on the subject, declined to interfere in the decision of the Karnataka High Court and, therefore, rejected the appeals. It was held by the Hon'ble Apex Court as under:-

“9. Sufficient cause is the cause for which defendant could not be blamed for his absence. The meaning of the word "sufficient" is "adequate" or "enough", inasmuch as may be necessary to answer the purpose intended. Therefore, the word "sufficient" embraces no more than that which provides a platitude, which when the act done suffices to accomplish the purpose intended in the facts and circumstances existing in a case, duly examined from the view point of a reasonable standard of a cautious man. In this context, "sufficient cause" means that the party should not have acted in a negligent manner or there was a want of bona fide on its part in view of the facts and circumstances of a case or it cannot be alleged that the party has "not acted diligently" or ground to enable the Court concerned to exercise discretion for the reason that whenever the Court exercises discretion, it has to be exercised judiciously. The applicant must satisfy the Court that he was prevented by any "sufficient cause" from prosecuting his case, and unless a satisfactory explanation is furnished, the Court should not allow the application for condonation of delay. The court has to examine whether the mistake is bona fide or was merely a device to cover an ulterior purpose.(See: **Manindra Land and Building Corporation Ltd. v. Bhootnath Banerjee & Ors.**, AIR 1964 SC 1336 ; **Lala Matadin v. A. Narayanan**, AIR 1970 SC 1953 ; **Parimal v. Veena @ Bharti**, 2011(2) RCR (Civil) 155 : 2011(1) **Recent Apex Judgments (R.A.J.) 611 and Maniben Devraj Shah v. Municipal Corporation of Brihan Mumbai**, AIR 2012 SC 1629.

10. In **Arjun Singh v. Mohindra Kumar**, AIR 1964 SC 993 this Court explained the difference between a "good cause" and a "sufficient cause" and observed that every "sufficient cause" is a good cause and vice versa. However, if any difference exists it can only be that the requirement of good cause is complied with on a lesser degree of proof than that of "sufficient cause".

11. The expression "sufficient cause" should be given a liberal interpretation to ensure that substantial justice is

done, but only so long as negligence, inaction or lack of bona fides cannot be imputed to the party concerned, whether or not sufficient cause has been furnished, can be decided on the facts of a particular case and no straitjacket formula is possible.(Vide: **Madanlal v. Shyamlal, 2002(2) RCR (Civil) 361 ; and Ram Nath Sao @ Ram Nath Sahu & Ors. v. Gobardhan Sao & Ors., 2002(2) RCR (Civil) 337.**

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.

13. The Statute of Limitation is founded on public policy, its aim being to secure peace in the community, to suppress fraud and perjury, to quicken diligence and to prevent oppression. It seeks to bury all acts of the past which have not been agitated unexplainably and have from lapse of time become stale. According to Halsbury's Laws of England, Vol. 24, p. 181:-

"330. Policy of Limitation Acts. The courts have expressed at least three differing reasons supporting the existence of statutes of limitations namely,(1) that long dormant claims have more of cruelty than justice in them, (2) that a defendant might have lost the evidence to disprove a stale claim, and(3) that persons with good causes of actions should pursue them with reasonable

diligence". An unlimited limitation would lead to a sense of insecurity and uncertainty, and therefore, limitation prevents disturbance or deprivation of what may have been acquired in equity and justice by long enjoyment or what may have been lost by a party's own inaction, negligence' or laches. (See: **Popat and Kotecha Property v. State Bank of India Staff Assn.**, 2005(4) RCR (Civil) 334 : (2005) 7 SCC 510 **Rajendar Singh & Ors. v. Santa Singh & Ors.**, AIR 1973 SC 2537 and **Pundlik Jalam Patil v. Executive Engineer, Jalgaon Medium Project**, (2008) 17 SCC 448 14. In **P. Ramachandra Rao v. State of Karnataka**, 2002(2) RCR (Criminal) 553, this Court held that judicially engrafting principles of limitation amounts to legislating and would fly in the face of law laid down by the Constitution Bench in **A. R. Antulay v. R.S. Nayak**, 1992(2) RCR (Criminal) 634."

6(ii). The law on the issue can be summarised 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. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on

time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature.

7. This Court in **Yash Pal Joura Vs. Naveen Mahajan, 2024(1) RCR (Civil) 248**, while considering the aforesaid judgments of the Hon'ble Apex Court, has held that no Court can be justified in condoning an inordinate delay by imposing any condition whatsoever.

8. Recently, the Hon'ble Apex Court in **Shivamma (Dead) by LRs Vs. Karnataka Housing Board and ors., 2025 SCC Online SC 1969**, has held that sufficient cause must be shown for the entire period of limitation and that the question of limitation is not merely a technical consideration. It has been held as under:-

“259. 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. We should not keep the 'Sword of Damocles' hanging over the head of the respondent for indefinite period of time to be determined at the whims and fancies of the appellants.

260. From the above exposition of law, it is abundantly clear that the High Court has erroneously condoned a massive delay of 3966 days on account of certain lapses at the administrative levels and of there being no follow-ups in the proceedings, along with finding certain merits in the case of the respondent no. 1 against the maintainability of the suit of the appellant and that of the relief molded by the First Appellate Court. We have no hesitation in stating that such grounds are nowhere near to being "*sufficient cause*" as per Section 5 of the 1963

Act. The High Court lost sight of the fact that the precedents and authorities it relied upon by it had delays of two digits, or even that of single-digit, more particularly the delay in those cases was supported by sufficient cause. The present case, however, stands on a very different footing, owing to such an enormous delay. Hence, we are not inclined to accept the condonation of the delay by the High Court.”

9. Reverting to the facts of the present case, the Civil Suit filed by the non-applicant/respondent, wherein the applicant-appellant was proceeded against *ex-parte*, was decreed by the trial Court on 04.03.2015. While decreeing the suit, the trial Court granted the alternative relief of refund of Rs.2 Lakh along with interest @ 12% per annum and future interest @ 6% p.a. However, vide judgment and decree dated 08.01.2018 passed by the first Appellate Court, the appeal filed by the non-applicant/respondent (plaintiff) was allowed and the plaintiff was held entitled to the relief of specific performance. In appeal too, there was no representation on behalf of the applicant-appellant.

10. The applicant-appellant filed the instant appeal before this Court on 17.04.2023. The appeal was returned by the Registry with certain objections. The same was re-filed on 05.06.2023, but again certain objections were raised by the Registry. After removal of the said objections, the same was again re-filed 21.12.2023, but again it was returned with some objections. The appeal was finally re-filed on 08.01.2024. However, before the appeal was filed, a delay of 1121 days i.e., more than 3 years, had already occurred in filing the appeal.

11. A perusal of the grounds taken in the application seeking condonation of delay makes it clear that the applicant-appellant has failed to point out any sufficient cause for condonation of the inordinate delay of 1121 days (more than 3 years) in filing the appeal. Still further, the fact that the applicant-appellant was duly being represented before the Executing Court also proves the falsity of the grounds taken for condonation of the colossal delay in filing the appeal.

12. In view of the above, the application seeking condonation of delay is dismissed. Consequently, the appeal also stands dismissed.

[VIKRAM AGGARWAL]
JUDGE

05.02.2026
ds

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No