

25 RCA CIVIL DJ ADJ 123/25
ANAND KUMAR Vs. RAJEEV KUMAR

24.02.2026

**One of the Regular Stenographers is on CCL from 19.02.2026 till 12.03.2026.
No Substitute Stenographer has been provided for today.**

Present: Sh. Amit Sharma, Ld Counsel for appellant/defendant.
Sh. Vijyendra Pal Singh, Ld Counsel for respondent/plaintiff.

Arguments heard on application under Section 5 of Limitation Act, 1963 seeking condonation of delay in filing appeal.

It is stated that due to sickness and medical treatment, applicant was unable to get counseling by his counsel for filing of the present appeal. It is further stated that applicant was affected by nervous and chronic mental disorders and required continuous treatment and medical supervision of doctors and due to this reason, delay of 4 months and 5 days occurred in filing of the present appeal.

Respondent has contested the aforesaid application and stated that the impugned order is dated 26.05.2025 whereas the appeal has been filed on 08.12.2025 so there is a substantial delay in filing appeal.

Law on the condonation of delay is well settled.

Section 5 of Limitation Act, 1963 talks about condonation of delay in preferring appeal provided appellant shows 'sufficient cause'. Hon'ble Supreme Court of India, from time to time, has clarified the law on the condonation of delay as well as on the meaning of term 'sufficient cause'.

It has been held by Hon'ble Supreme Court of India in several judgments that the section 5 of limitation Act, 1963 needs to be construed liberally.

In para 14 of *"Pathapati Subba Reddy (Died) By L.Rs & Ors Vs. The Special Duty Collector (LA), 2024 INSC 286"* Hon'ble Supreme Court of India observed;

14. It may also be important to point out that though on one hand, Section 5 of the Limitation Act is to be construed liberally, but on the other hand, Section 3 of the Limitation Act, being a substantive law of mandatory nature has to be interpreted in a strict sense. In ***Bhag Mal alias Ram Bux and Ors. vs. Munshi (Dead) by LRs. and Ors.***, it has been observed that different provisions of Limitation Act may require different construction, as for example, the court exercises its power in a given case liberally in condoning the delay in filing the appeal under Section 5 of the Limitation Act, however, the same may not be true while construing Section 3 of the Limitation Act. It, therefore, follows that though liberal interpretation has to be given in construing Section 5 of the Limitation Act but not in applying Section 3 of the Limitation Act, which has to be construed strictly.

Hon'ble Supreme Court of India in the case of '***Collector, Land Acquisition Anantnag & Anr. Vs. Mst. Katiji & Ors. reported in (1987) 2 SCC 107***' as held as hereunder.

“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 appear 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:

1. Ordinarily a litigant does not stand to benefit by lodging an appeal late.
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.

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.*

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 power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so.*

Making a justice-oriented approach from this perspective, there was sufficient cause for condoning the delay in the institution of the appeal."

In para 13 & 14 of ***N. Bala Krishnan Vs. M. Krishnamurthy AIR 1998***

SC 3222, Hon'ble Supreme Court of India observed:

"13. It must be remembered that in every case of delay there can be some lapse on the part of the litigant concerned. That alone is not enough to turn down his plea and to shut the door against him. If the explanation does not smack of mala fides or it is not put-forth as part of a dilatory strategy the Court must show utmost consideration to the suitor. But when there is reasonable ground to think that the delay was occasioned by the party deliberately to gain time then the Court should lean against acceptance of the explanation. While condoning delay the Court should not forget the opposite party altogether. It must be borne in mind that he is a loser and he too would have incurred quite a large litigation expenses. It would be a salutary guideline that when Courts condone the delay due to

laches on the part of the applicant the Court shall compensate the opposite party for his loss”.

It is a settled position of law that application under Section 5 of Limitation Act, 1963 should be dealt with liberally unless there is ***‘inordinate delay’*** which is not explained or where the delay reeks of mala-fide on the part of appellant.

This court is of considered opinion that right to file appeal is a statutory right and any application seeking condonation of delay should be considered liberally and it should not be permitted to be defeated on the technical grounds alone. In the present case, appellant is a 64 years old man who is not well versed with limitations and timelines for filing appeal.

In the interest of justice, this court considers it fit to condone the delay.

List for arguments on appeal on **18.03.2026**.

Counsel for the appellant submits that the next date of hearing before the Trial Court is fixed for 03.03.2026. Hence, any date prior to the date before Trial Court be given.

Accordingly, list on **02.03.2026**.

Counsel for appellant further submits that warrants of possession have already been issued by the trial court and the if appellant is dispossessed his appeal would become infructuous. It is further submitted that the bailiff has not been appointed as yet.

In the circumstances, let no coercive action be taken against JD/appellant till the next date of hearing before this court.

(Abhitosh Pratap Singh Rathore)
DJ-05 (SW)/Dwarka Courts
New Delhi: 24.02.2026