

ORDER BELOW EXH-1

1. Present application has been filed by the applicant for the delay condon application stating that, the original suit R.S.C.NO.74/2016 has been dismissed on dated 14/08/2019 and hence, they have to file restoration application within 30 days but there is delay of 3 months and 5 days and hence, delay condon application is filed by the applicant.
2. After the filling the present application the notice were issued to other side and other side remain present through their advocate on 19/12/2019 and since then application was kept for hearing.

Till today the applicant had not remain present before the court to proceed with the matter it seems that, the applicant who is the palintiff in the original suit is not interested to proceed with the application. Moreover, the court had also gone through the judgment of Apex Court which as under :

The hon'ble High Court of Gujarat has held in case of PATEL SHANKARBHAI VIRABHAI V/S. PATEL NARAYANBHAI AMBALAL (CIVIL APPLICATION No. 426 of 2010 dated 10/11/2011) that 'A litigant cannot say that since he entrusted the matter to a lawyer he would thereafter go in slumber. A litigant also owes a duty to keep a constant watch on the proceedings.'

3. It is well settled that "the Law helps who awake and not the sleepy person". So looking to the conduct of the applicant is very much clear that, the applicant did not remain present in the original suit and hence, the said suit was dismissed on the absence of applicant. Even in the present suit the applicant had failed to remain present since

long so, it is transpires that, he does not want to proceed with the present application. The Court suo-moto granted the adjournment in interest of justice but neither the advocate appear nor the applicant remain present before the court. Today also the matter was listed in te board but the advocate didn't turned up to proceed with the application. Hence granting suo-moto adrjournment would not be in interest of justice. Hence in the interest of justice folowing order is passed.

ORDER

1. Present application dismissed as default without going into merits of the said application.
2. No order as to cost.
3. The original R & P is to be sent to concern department.

Date : 06/07/2026
Place : Petlad

(ARUN J. VASU)
Addl. Sr. Civil Judge
Petlad
CODE : GJ01397