

GJBH010008322026	Filing No.:	CMA/40/2026
	Filed On:	04/04/2026
	Decided	08/08/2026
	On :	0Y-4M-4D
	Duration:	

**IN THE COURT OF 6th ADDITIONAL DISTRICT JUDGE,
AT BHARUCH**

Civil Misc. Application (Condonation of Delay) No.40/2026

Exh.____

<u>Applicant:</u>	1. Sureshbhai Mangalbhai Patel R/o. Sukaltirth, Ta. & Dist. Bharuch. Bharuch.
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V/s.

<u>Opponents:</u>		
	1	Taluka Development Officer Shri, Bharuch Office of Taluka Development Officer, Bharuch.
	2	Mamlatdar Shri, Bharuch. Office of Mamalatdar Shri, Bharuch.
	3	Gram Panchayat, Sukaltirth, Village : Sukaltirth, Ta. & Dist. Bharuch.
	4	Sarpanch Shri, Sukaltirth Village : Sukaltirth, Ta. & Dist. Bharuch.
	5	Talati-cum-Mantri Shri, Sukaltirth

		Village : Sukaltirth, Ta. & Dist. Bharuch.
	6	Dharmendrabhai Bhatiau Village : Sukaltirth, Ta. & Dist. Bharuch.

Appearance:

Ld. Advocate Ms. F.F.Shah, Mr. D.M. Maurya, for the applicant.

Ld. Advocate Mr. H.I.Shah, for the opponent nos. 1,3,4 & 5.

Ld. Advocate Mr. S.R.Rajput, for the opponent no.6.

An application U/s. 5 of The Indian Limitation Act, 1963.**JUDGMENT**

1. The applicants have preferred the present application u/s. 5 of the Limitation Act, 1963, praying for condonation of delay of 95 days occurred in preferring the miscellaneous civil appeal.
2. Learned Advocate on behalf of the applicant has submitted that, the applicant is supposed to file miscellaneous appeal against the order passed below Exh.5 by the learned trial court on 26/09/2025 in RCS No.1/2025 but he could not file appeal within prescribed period of limitation. He has further submitted that, Trial Court has passed an order on 26/09/2025, but he came to know about the order on 25/10/2025 and thereafter he applied for the certified copy on 25/10/2025 and the same was received on 14/11/2025, therefore, he could not file the appeal in time and delay of 95 days caused in filing miscellaneous appeal. He has also submitted that, such delay is not willful and inordinate delay and it is not inaction on the part of applicant, hence it

should be condoned. Thus, he has prayed that, the present application may be allowed.

3. Upon due service of notices, the opponents have appeared through their advocates.
4. Opponent nos. 1,3,4 & 5 have appeared through their Ld. Advocate Mr. H.I.Shah and have filed written reply at Exh.8, wherein he has submitted that the application filed by the applicant is false, illegal and concocted. He has further submitted that the applicant has no right, interest or authority to file such an application. The facts stated in the application have been falsely concocted with a view to mislead the Hon'ble Court and to file the present application. He has further submitted that the applicant has not disclosed any explanation or reason as to why the said delay occurred. He has further submitted that if the applicant contends that he had no knowledge of the said order, then such contention is false. Consequently, prays to reject the said application.
5. Though sufficient opportunities have been given to the opponent nos. 2 & 6, but they failed to file written reply, therefore, their right to file written reply has been closed.
6. Heard learned advocates for the parties. The reason for delay is that the Trial Court has passed an order on 26/09/2025, but he came to know about the order on

25/10/2025 and thereafter he applied for the certified copy on 25/10/2025 and the same was received on 14/11/2025, therefore, he could not file the appeal in time and delay of 95 days caused in filing miscellaneous appeal. Therefore, the delay is not willful and inordinate delay and it is not inaction on the part of applicant. Whether the allegations made in the appeal are true or false that can be decided on merits only. Also, there does not appear to be any mala-fide intention on the part of applicant so as to prolong the matter. Thus, it can be said that, the cause shown by the applicant is “sufficient cause” to condone the delay. The ultimate goal of procedural law is to do justice. Generally the Court should take lenient and pragmatic view for doing substantive justice to condone the delay. Further, the legislature has conferred power to condone the delay by enacting Section 5 of the Limitation Act, 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 Court to apply the law in a meaningful manner which sub-serves the ends of justice that being the life-purpose for the existence of the institution of Courts. Therefore, this court is of the view that with the object of doing substantial justice and sufficient cause having been made out, the applicant has persuaded the Court to condone the delay in filing the appeal. Dismissing the appeal on technical ground of limitation would not in any way advance the interests of

justice but admittedly result in failure of justice. Thus, the following final order is passed in the interest of justice.

ORDER

1. This application is hereby allowed.
2. The delay of 95 days caused in preferring the Miscellaneous Civil Appeal against the order passed below Exh.5 by the learned Additional Sr. Civil Judge, Bharuch in Regular Civil Suit No.1/2025 on 26/09/2025 is hereby condoned.
3. The Registry is directed to admit the miscellaneous civil appeal and proceed in accordance with the law.

Signed & Pronounced in the open Court today on the 8th day of August, 2026.

Place: Bharuch
Date :08-08-2026

(P.M.Soni)
6th Additional Sessions Judge
Bharuch.
(Code No.: GJ00747)