

GJCU080002762025



Received on 21 04 2025

Registered on 21 04 2025

Decided on 07 04 2026

Duration : Y: 00 M: 11 D: 17

Exh.....

**IN THE COURT OF
ADDITIONAL DISTRICT & SESSIONS JUDGE,
CHHOTAUDEPUR AT BODELI.**

Civil Misc. (Delay Condonation) Application No. 07 of 2025

Appellants :-

1. Bhil Rameshbhai Namabhai

Age :- 50 Years, Occupation :- Agriculture Work

2. Bhil Dineshbhai Mangaldas

Age :- 40 Years, Occupation :- Agriculture Work

3. Bhil Laxmanbhai Mangaldas

Age :- 43 Years, Occupation :- Agriculture Work

All are residing at Ghodi Simel

Ta. Naswadi, District :- Chhotaudepur.

Versus

Respondents :-

**Legal Heirs Of Deceased Laduben D/o Parsotambhai
Dhediabhai**

1. Bhil Pratapbhai Arjunbhai

Age :- Adult , Occupation :- Agriculture Work

2. Bhil Ishvarbhai Arjunbhai

Age :- Adult , Occupation :- Agriculture Work

3. Bhil Dasbhai Arjunbhai

Age :- Adult , Occupation :- Agriculture Work

4.Bhil Laljibhai Arjunbhai

Age :- Adult , Occupation :- Agriculture Work

5.Bhil Manjulaben Arjunbhai

Age :- Adult , Occupation :- Agriculture Work

6.Bhil Surajben Arjunbhai

Age :- Adult , Occupation :- Agriculture Work

No. 1 to 4 are residing at Roziya, Ta. Naswadi, District- Chhotaudepur.

No.5 is residing at Bakkhar, Ta. Garudeshwar, District- Narmada.

No.6 is residing at Savali, Ta. Tilakvada, District- Narmada.

=====

Application for condonation of delay.

=====

Ld. Advocate Mr. R. R. Prajapati for the appellants Nos.1 to 3.

Ld. Advocate Mr. N. I. Pancholi for the opponents Nos. 1 to 6.

=====

::: ORDER :::

1. The present appellants have preferred this Civil Misc. Application seeking condonation of delay in filing a Regular Civil Appeal against the order dated 20/04/2022 passed by the Ld. Principal Civil Judge, Naswadi in R.C.S. No. 40/2020, whereby the Ld. Judge has partly allowed the suit and held that the defendants have no right, title, interest or share in the suit properties, namely the lands bearing Account No. 145 of Old Survey Nos. 102/1 and 142/1 (New Survey No. 183), Old Survey No. 146 (New Survey No. 191), and the immovable property bearing House No. 34 situated within the limits of Ghodisimel Gram Panchayat, and has granted permanent

injunction restraining the defendants and their representatives from interfering with the plaintiffs' possession, further directing the defendants to vacate the said house within 30 days and hand over quiet and vacant possession.

Submissions of the appellants(Original defendants):

2. It is submitted on behalf of the appellants that, after the pronouncement of the Judgment and Order dated 20/04/2022, they could not file the appeal within the stipulated time due to unavoidable circumstances, as they are poor, illiterate tribal persons who had no source of income or residence after being dispossessed of the land by the defendants and were compelled to migrate with their family to Kathiawad for their livelihood by doing agricultural labour work, which resulted in a delay of 2 years and 9 months in filing the present appeal. It is further submitted that, upon coming to know that an order had been passed against them, the appellants applied for certified copies on 15/07/2022 and received the same on 16/07/2022. It is also stated by the Ld. Counsel for the appellants that, due to their illiteracy, lack of legal knowledge, financial constraints, and absence of proper guidance, they could not prefer the appeal within time and have therefore filed the present delay condonation application seeking permission to register their Regular Civil Appeal against the impugned order dated 20/04/2022. It is, therefore, prayed that since the rights and interests of the appellants are involved, the delay deserves to be condoned in the interest of justice.

3. Notices were issued to all the opponents. Upon service of notice, Ld. Counsel Mr. N. I. Pancholi appeared and orally argued the matter and also filed a written reply at Exh. 7, contending that, except for certain admitted facts, all statements made by the appellants are false and fabricated. It is submitted that the appellants have misrepresented facts regarding ownership and possession of the suit properties and that the judgment in R.C.S. No. 40/2020 was passed after due consideration of oral and documentary evidence. It is further contended that the appellants had knowledge of the proceedings, and the original defendant No. 1 had appeared through an advocate before the trial court but deliberately did not appear before the Ld. trial court, as a result of which the suit proceeded ex parte, and therefore the appellants cannot take advantage of their own negligence. It is also submitted that the reasons assigned for delay, such as poverty, illiteracy, and lack of legal knowledge, are false, vague, and unsupported by material, and that the delay of 2 years and 9 months is deliberate and inordinate. It is further contended that no sufficient cause is shown for condonation of delay and that the appellants have not complied with the order of costs passed by the trial court. Relying upon the judgments in ***P.K. Ramachandran v. State of Kerala* (1997) 7 SCC 556**, ***Basawaraj v. Special Land Acquisition Officer* (2013) 14 SCC 81**, ***Postmaster General v. Living Media India Ltd.* (2012) 3 SCC 563**, and ***Bharat Barrel & Drum Mfg. Co. v. ESI Corporation* (1971) 2 SCC 860**, it is submitted that the law of limitation is based on public policy and that delay cannot be

condoned in the absence of sufficient cause, particularly when it is due to negligence or inaction. Hence, the present application deserves to be rejected.

4. I have gone through the facts as well as the reasons mentioned in the present application, the contents of the reply filed by the opponents, the documents produced on record, and the submissions advanced by the learned advocates for both the sides. It is stated by the appellants in the present application that, due to unavoidable circumstances and illiterate persons having no source of income or residence after being dispossessed from the land, they were compelled to migrate to Kathiawad for labour work and, therefore, could not file the appeal against the order dated 20/04/2022 within the prescribed period, resulting in a delay of 2 years and 9 months, for which the present delay condonation application is filed.
5. Under section 5 of the limitation act, an application for condonation of delay can be entertained if the applicant satisfies the Court that he had sufficient cause for not preferring the appeal within the prescribed period. However the explanation must be convincing, continuous, and free from gross negligence or deliberate in-action
6. The Hon'ble Supreme Court in case of,

(1) P.K. Ramachandran v. State of Kerala (1997) 7 SCC 556

"Law of limitation is founded on public policy. The courts have no power to extend limitation on equitable grounds if no

sufficient cause is shown."

**(2) Basawaraj V. Special Land Acquisition Officer (2013)
14 SCC 81**

"Ignorance of law, or counsel's inaction, cannot be a ground for condoning an inordinate delay unless there is proof of bonafide and continuous effort."

**(3) Postmaster General V/s Living Media India Ltd. (2012)
3 SCC 563**

"Condonation of delay is an exception and should not be used as an anticipated benefit for government bodies or litigants who adopt an indifferent attitude."

7. Further, in the case of **Oriental Aroma Chemical Industries Ltd. v. Gujarat Industrial Development Corporation and another** In **Civil Appeal No.2075 of 2010** wherein Hon'ble Supreme Court has held that:

"... The expression 'sufficient cause' employed in Section 5 of the Indian Limitation Act, 1963 and similar other statutes is elastic enough to enable the courts to apply the law in a meaningful manner which sub-serves the ends of justice. Although, no hard and fast rule can be laid down in dealing with the applications for condonation of delay, this Court has justifiably advocated adoption of a liberal approach in condoning the delay of short duration and a stricter approach where the delay is inordinate."

In Civil Appeal No. 5958/2015

M/s Suryachakra Power Corp. Ltd. Vs. Electricity Department

Hon'ble Supreme Court has observed that: -

"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...."

8. The entire crux of all the decisions is that the Courts are bestowed with the power to condone the delay if 'sufficient cause' is shown for not availing the remedy within the stipulated time but if any negligence, inaction or want of bona fide is imputable to the applicants the ground of 'sufficient cause' lapses and in such a case the delay shall not be condoned.
9. In the present case, the appellants have filed the application seeking condonation of delay; however, no sufficient material, supporting documents, or detailed and convincing explanation has been placed on record to justify the inordinate delay of 2 years and 9 months. Though the appellants have attributed the delay to poverty, illiteracy, and migration for labour work, the same remains unsubstantiated by any cogent evidence. The record further indicates that the appellants had knowledge of the proceedings, and as observed in the judgment of the trial court, summons (Exh. 06) to appellants(Original defendants) No. 1 to 4, of the suit was duly served upon appellants(Original defendants), however, they neither remained present nor filed any written

statement, and therefore their right to file reply came to be closed. It is also recorded by the trial court in the judgment that appellant(Original defendant) No. 1 had appeared through advocate and sought time, but despite repeated opportunities, no written statement was filed and the right to file the same was closed. Such conduct clearly reflects negligence and lack of due diligence on the part of the appellants, resulting in the suit being proceeded ex parte.

10. This Court does not find any “sufficient cause” explaining why the appellants could not prefer the appeal within the prescribed period. The grounds of illiteracy, lack of legal knowledge, and financial constraints, in absence of any supporting material, cannot by themselves constitute sufficient cause. It is a settled principle that ignorance of law is no excuse (*ignorantia juris non excusat*), and a litigant cannot seek condonation of delay solely on such vague and general grounds. The appellants have failed to demonstrate continuous and bona fide efforts to pursue their remedy within time.
11. From the pleadings, it appears that the appellants have obtained the certified copy of the impugned judgment on 16/07/2022; however, no satisfactory explanation has been provided for the substantial period thereafter till the filing of the present appeal, resulting in a delay of 2 years and 9 months. The absence of any explanation for this prolonged and unexplained period clearly indicates lack of diligence and indifference on the part of the appellants. Such inordinate and

unexplained delay does not entitle the appellants to discretionary relief under Section 5 of the Limitation Act, as the explanation fails to satisfy the test of reasonableness and bona fide required in law.

12. In the light of the aforesaid factual as well as legal points discussed herein above along with the ratio laid down by the Apex court in the above mentioned judgment, I hold that the present delay condonation application does not have any merit and hence, the following order is passed :-

:: O R D E R ::

1. This Civil Misc. Application **No. 07 of 2025**, is hereby, **dismissed**.
2. No order as to cost.

Pronounced and signed on today i.e. 07th Day of April, 2026.

Date : 07/04/2026.
Place: Bodeli.

[S. P. Shankar]
UIC No. GJ01601
Addl. District & Sessions Judge,
Chhotaudepur at Bodeli.