

Received on : 16/02/2026
Registered on : 16/02/2026
Decided on : 08/04/2026
Duration : YY MM DD
00 01 23

Exh. :- _____

IN THE HON'BLE COURT OF
THE PRINCIPAL DISTRICT JUDGE
JUNAGADH

Civil Misc. Application No. 26 of 2026

Applicant :-

Defacto Sole Trustee, Administrator – – Moti Haveli,
and Manager of: Haveli Street,
Shri Madan Mohanlalji Haveli @ Junagadh
Moti Haveli Trust, Junagadh:

Piyushbavaji Kishorchandraji
Gosvami

V E R S U S

Opponents :-

1 Heirs of deceased Ramniklal – –
Prabhudas Rajpara:

1/1 Rajubhai Ramnikbhai Rajpara Adult Business Giriraj Jewellers,
Malivada Road,
Junagadh

1/2 Dilipbhai Ramnikbhai Rajpara Adult Business Raghunath
Chambers, Near
Panchhatadi
Chowk,
Junagadh

1/3 Niruben Madhusudanbhai 58 Household Street of Swapna
Dholakiya work Srusti, Zanzarda
Road, Junagadh

2 The Charity Commissioner – – Gebanashapir

Summons Through: The Assistant
Charity Commissioner

Road, Opp. Gate
of Panjarapol ,
Junagadh

Appearance :-

Ld. Advocate **Shri S. B. Joshi** for applicant.

Ld. Advocate **Shri K. B. Sanghavi** for opponent Nos.1/1 to 1/3.

None on behalf of opponent No.2.

-:: J U D G M E N T ::-

1. Facts of the original case :-

The present applicant filed suits i.e. Special Civil Suit No.163/1998, Regular Civil Suit No.821/1998 to Regular Civil Suit No.826/1998 which were rejected vide common Judgment and Decree dated 06.12.2025, passed by the Learned Additional Senior Civil Judge, Junagadh. Being aggrieved and dissatisfied with the said Judgment and Decree, the present applicant, who was the original plaintiff in the said suits, intends to prefer an appeal. However, a delay has occurred in filing the appeal; therefore, the present application is being preferred for condonation of delay.

2. Facts of the present application :-

It is respectfully submitted that the appeal was required to be filed by 05.01.2026; however, on 07.12.2026 was Sunday and the applicant had applied for getting certified copy on 08.12.2025 which was delivered on 22.12.2025 and excluding the time consumed in getting the certified copy, the appeal was to be filed by 20.01.2025, however, time was consumed in getting the instructions and legal opinion which was a bonafide delay and hence, there is delay of 27 days in preferring the appeal. Hence, the present application is filed seeking condonation of a delay

of 27 days in preferring the appeal.

3. **Reply of other side and argument :-**

The opponent Nos.1/1 to 1/3 have appeared through their lawyer but has not resisted the present petition.

Ld. Advocate for the applicant has submitted that the delay is bonafide as the time was consumed in getting the instructions and legal opinion and therefore, submitted that delay caused in preferring the appeal be condoned.

REASONS :-

4. So far as condonation of delay is concerned, the judgment of Hon'ble Apex Court in the case of **B. Madhuri Goud V/s. Damodar Reddy** which is reported in **2012 CJ (SC) 1413** comes into way and wherein the Hon'ble Apex Court has laid down the ratio 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 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 malafides. 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.

6. Therefore, considering the above dicta in the case of ***B. Madhuri Goud*** of the Hon'ble Apex Court and to have result on merits and in the interest of substantial justice, the delay which is caused is required to be condoned. Moreover, granting of the present application will not prejudice the rights of the otherside in any way as the opponents will get an opportunity to led their case and same time the present applicant has stated that time was consumed in getting instructions and legal opinion and therefore it cannot be said that the applicant is not conversant with the period of limitation and therefore cost is required to be imposed. Therefore, considering the precedent of the Hon'ble Apex Court, the present application requires to be granted and considering the same, I pass the following order which is as under:-

ORDER

This application is allowed and the applicant shall pay cost of **Rs.300/- (Rupees Three Hundred Only)** to each opponent Nos.1/1 to 1/3, within 7 days from today and the payment of costs is sine-qua-non to get delay condoned and appeal be registered accordingly.

Pronounced in the open court today
on this 8th day of April, 2026.

Date : 08.04.2026
Junagadh.

(B. G. Dave)
Principal District Judge
Junagadh
[GJ00469]