



GJSK020213072025 	Filed on	:	03.09.2025		
	Registered on	:	03.09.2025		
	Decided on	:	17.06.2026		
	Duration	:	00	09	14
			Years	Months	Days

**IN THE COURT OF PRINCIPAL SENIOR CIVIL JUDGE,
SABARKANTHA AT HIMMATNAGAR.**

CIVIL MISC. APPLICATION No. 38/2025

Exh. :

01. Dineshbhai Dahyabhai Patel

Age : 40 years, Occupation : Business & Agriculture

R/o. : Rampur (Nava), Po. Ganthiyol,

Ta. Idar, Dist. Sabarkantha.

Present resi. Of : 46, Decent park society, Kanklol road,

Ta. Himmatnagar, Dist. Sabarkantha.

.....Applicant

// Versus //

01. Jalaram Enterprise (Jalaram Glazes) partnership firm

Address : Survey No. 865/1, behind Sahakari Gin,

near Sabar cable, At-Post Kanklol, Ta. Himmatnagar,

District – Sabarkantha.

(summons to be served to the opponent No. 5)

02. Jalaram Enterprise (Jalaram Glazes) partnership firm through its partner – Arvindbhai Lallubhai Patel

Age : 43 years, Occupation : Business & Agriculture

Resi. Of : Rampur (Nava), Po. Ganthiyol, Ta. Idar,

District – Sabarkantha.

03. Jalaram Enterprise (Jalaram Glazes) partnership firm through its partner – Jayeshbhai Bhikhabhai Patel

Age : 43 years, Occupation : Business & Agriculture

Resi. Of : Rampur (Nava), Po. Ganthiyol, Ta. Idar,

District – Sabarkantha.

04. Jalaram Enterprise (Jalaram Glazes) partnership firm through its partner – Bupendrabhai Rameshbhai Patel

Age : 41 years, Occupation : Business & Agriculture,

Resi. Of : Rampur (Nava), Po. Ganthiyol, Ta. Idar,

District – Sabarkantha.

05. Jalaram Enterprise (Jalaram Glazes) partnership firm through its partner – Kamleshbhai Prabhubhai Patel

Age : 44 years, Occupation : Business & Agriculture,

Resi. Of : Rampur (Nava), Po. Ganthiyol, Ta. Idar,

District – Sabarkantha.

06. Jalaram Enterprise (Jalaram Glazes) partnership firm through its partner – Rohitbhai Narshibhai Patel

Age : 42 years, Occupation : Business & Agriculture,

Resi. Of : Rampur (Nava), Po. Ganthiyol, Ta. Idar,

District – Sabarkantha.

.....Opponents

:: An Application for condoning of delay ::

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Appearance :

Learned advocate Ms. K. R. Soni for Applicant

Learned advocate Mr. H. C. Pandya for Opponents

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:: O R D E R ::

01. The present applicant has filed this application for condonation of delay in filing restoration application. The brief facts of the application are as under:

02. The present applicant / original plaintiff had filed the Special Civil Suit No. 06/2023 in the Court of Principal Senior Civil Judge, Himmatnagar against the present opponents / original defendants for recovery of dues amount of Rs.77,32,482/-. Therefore, the present suit was kept on the stage of plaintiff's evidence, but the plaintiff unable to produce evidence on time due to misunderstanding over adjournment date, due to which his suit was Dismissed on 21.07.2025. The applicant submits that as per rules, in order to restore his suit, he has to file restoration application within 30 days, but he went out of city for the business purpose, therefore, he failed to do so

erroneously and in larger interest of justice, he has prayed to condone the delay of 11 days.

03. On admission of the present application for condonation of delay, notice were duly served to the opponents. On service of notice, the opponents were appeared through their learned advocate Mr. H. C. Pandya vide Exh. 04. Thereafter, this application has put for opponent's reply, but they failed to file their reply. The learned advocate for the opponents has verbally denied all the averments of the applicant. He has further stated that, the notice was served to the applicant, however he failed to remained present before the Court and applicant also have knowledge of dismissal of order. Applicant has not submit proper reason for condone the delay. Therefore, he prayed to reject the present application of the applicant.

04. Heard. Perused the case papers.

05. Following points for determination have been arisen:

1. Whether there is sufficient cause to condone the delay occurred in filing restoration application?
2. What order?

06. My findings on the above points are as under with recorded reasons thereon : -
1. In the affirmative.
 2. As per final order.

:: REASONS / DISCUSSIONS ::

Issue Nos. 1 & 2 :

07. The primary function of the Court is to adjudicate the dispute between the parties and to advance substantial justice. The time limit fixed for approaching the Court in different situation is not, because on the expiry of such time, a bad cause would transfer into a good cause. Rules of limitation are not meant to destroy the rights of the parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury. The Law of Limitation is thus founded on public policy. Condonation of delay is a matter of discretion of the Court. Section 5 of the Limitation Act does not say that such discretion can be exercised only, if the delay is within the certain limit. Length of delay is not matter, acceptability of the explanation is the only criteria. 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. The words “*sufficient means*” under Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice. The Court should be ordinarily lenient and liberal in determining the sufficiency or reasonability of ground for condonation so as to see that no meritorious matter is thrown away on a technical plea of delay.

08. I have carefully gone through the papers placed on record. The delay occurred in this case is 11 days. It is important to note that the right and dispute of the parties is required to be decided on merits. The parties shall not be deprived of his right to get justice only on the technical ground of limitation. As per settled legal position held by the Hon'ble Apex Court in many decisions, while considering the question of condonation of delay, the Court should take a liberal view and while considering the application for condonation of delay, no strait jacket formula is prescribed to condone the delay. If sufficient ground has been made out, the Court has to take lenient view. Therefore, I am of

the view that the right of the parties is required to be decided on merits rather than on the technical ground of limitation. There is no *malafide* intention on part of the applicant to file delay condonation application. Further, if I allow this application, then the opponent will neither suffer in any manner, nor it will cause any prejudice to them. If I reject this application only on the technical ground, then the applicant would be deprived of his right of getting justice. Therefore, the contention raised by the learned advocate for the applicant is required to be taken into consideration. Considering the facts and circumstances of the present case and the reasons stated in the petition in para-1, this Court is of the view that there are sufficient reasons to condone the delay. So, I am of the view to condone the delay and to allow this application. Hence, I pass following final Order:-

:: FINAL ORDER ::

01. The application is allowed.
02. The delay caused in filing the restoration application in Special Civil Suit No. 06/2023 is hereby condoned subject to deposit sum of **Rs.1,000/- (Rs. One Thousand Only)** with the Taluka Legal Services Authority latest by 23.06.2026.

03. The restoration application be numbered and registered accordingly after payment of costs of **Rs.1,000/-** in T.L.S.A. Himmatnagar.

**Signed and Pronounced in Open Court today on this
17th day of June, 2026.**

Place : Himmatnagar
Date : 17.06.2026

(Ms. Jyotsna Vinubhai Parmar)
Principal Senior Civil Judge
S. K. @ Himmatnagar.
Judge Code no. GJ01021

*PARJITSINH