



IN THE COURT OF SENIOR CIVIL JUDGE & JMFC.,

AT: ALAND

Present: Shri. **Abdul Rahaman Pathan**,
B.A. LL.M.,
II Additional Senior Civil Judge & JMFC.,
Kalaburgi.
& C/C Senior Civil Judge & JMFC.,
ALAND

R.A. No. 18/2024

Dated this 02nd day of April 2026

APPELLANTS:

1. The Executive Officer
Taluka Panchayat, Aland,
2. The Project Development Officer
Gram Panchayat Darga Shirur
Village, Tq: Aland, Dist:
Kalaburagi.

(By Shri. S.C.P./A.P.D. Adv.,)

//Versus//

RESPONDENT:

Ankush S/o Narasing Chougule
Age: 35 years, Occ: Poultry
Farm Business, R/o Darga
Shirur Village, Tq: Aland, Dist:
Kalaburagi.

(By Shri. P.V.A. Adv.,)

PARTIES TO I.A. NO. I

**Applicants/
Appellants:**

The Executive Officer
Taluka Panchayath, Aland and
another.

//Versus//

**Opponent/
Respondent :**

Ankush S/o Narasing Chougule

Provision under which instant application is filed	U/Section 5 of Limitation Act
Relief sought for	To condone delay in filing appeal
Date of application	23.11.2024
Number	I. A. No. 1
Date on which the objections are filed	Not filed
Date on which Order is pronounced	02.04.2026

ORDER ON I.A. NO. I

The appellants/defendants filed instant application U/Section 5 of the Limitation Act to condone delay of 320 days in filing instant appeal.

2. The averments made in the affidavit annexed to the application in brief are as under:

It is averred in the affidavit annexed to the application that, the appellants filed instant appeal challenging the Judgment and decree in O.S. No. 133/2016 dated, 03.02.2024. The appellants could not trace the relevant documents well in time as such, there is delay in filing instant appeal. The delay committed in filing instant appeal is neither intentional nor deliberate one. If application as prayed for is allowed, the rights of respondent will not be prejudiced. Thus, prayed to allow this application.

3. It appears from Order Sheet dated, 15.04.2025 that, despite sufficient time, respondent did not file objection to instant application as such, objection his behalf is taken as not filed.

4. On the basis of application and objections filed, following points arise for my consideration:

1) Whether appellants have made out sufficient grounds to condone delay committed in filing instant appeal?.

2) What order?.

5. Heard learned counsel for appellants and respondent. Perused material on record. My answer to above points is as under:

Point No. 1: In the Negative

Point No. 2: As per final order for the following:

REASONS

6. **Point No. 1:** At the outset, appellants filed instant appeal challenging judgment and decree passed in O.S. No. 133/2016 on the file of Hon'ble Principal Civil Judge and JMFC., Aland. In support of oral their case, the Official of appellant No. 1 is examined as PW-1 and no documents are marked. It appears from Order Sheet dated, 27.02.2026 learned counsel for respondent submitted that, he has no evidence on behalf of respondent.

7. In view of above, this Court carefully perused material placed on record. Admittedly, there is delay of 320 days in filing instant appeal. It is worthwhile to state that, while considering an application filed U/Section 5 of the Limitation Act, the Court should adopt liberal and justice oriented approach. In a similar way, the

Court should be able to make distinction between cases, where the delay is inordinate and case where delay is of few days. The term sufficient cause should be understood based on the factual matrix of the each case and on bonafide of the explanation offered. The said preposition of law is supported by decision of Hon'ble Supreme Court reported in **(2012) 5 S.C.C. 157, (MANIBEN DEVRAJ SHAH V.S MUNICIPAL COPORATION OF BRIHAN MUMBAI)**. Wherein at Paragraph No. 24 and 25 it is held as under:

24. What colour the expression "sufficient cause" would get in the factual matrix of a given case would largely depend on bona fide nature of the explanation. If the Court finds that there has been no negligence on the part of the applicant and the cause shown for the delay does not lack bona fides, then it may condone the delay. If, on the other hand, the explanation given by the applicant is found to be concocted or he is thoroughly negligent in prosecuting his cause, then it would be a legitimate exercise of discretion nor to condone the delay.

25. In cases involving the State and its agencies/instrumentalities, the court can take note of the fact that sufficient time is taken in the decision-making process but no premium can be given for total lethargy or utter negligence on the part of the officers of the State and/or its agencies/instrumentalities and the applications filed by them for condonation of delay cannot be allowed as a matter of course by accepting the plea that dismissal of the matter on the ground of bar limitation will cause injury to the public interest.

It appears from sacred ratio laid down in the above extracted decision that, the Court should be able to make difference between inordinate delay and delay of few days and to be considered based on the bonafide of the explanation offered. The Court should also be able to understand that, the successful

party must have acquired right due to passage of time. The said preposition of law has been reiterated by Hon'ble Supreme Court in another decision reported in **(2021) 5 S.C.C. 321, (SRIDEVI DATLA V.S UNION OF INDIA AND OTHERS)**. Wherein also it is held that, the Court should be able to make distinction between inordinate delay and delay of few days. The Court should be able to understand that, in case of inordinate delay, the successful litigant has acquired certain rights on the basis of judgment under challenge and lot of time is consumed at various stages of litigation apart from cost. It appears from sacred dictum laid down in the above extracted decision that, the Court should take conscious decision that, while considering application filed for condonation of delay having regard to the rights accrued to the contra party during said period.

8. In view of above, this Court carefully perused material placed on record. So as to explain the delay committed, the Official of appellant No. 1 is examined as PW-1 and filed affidavit in lieu of examination in chief. In cross examination, he expressed ignorance that, Shri. Chinchure Advocate represented instant appellants before trial Court and he was not having any information about O.S. No. 133/2010. It is worthwhile to note that, admittedly, PW-1 is a Public Official and there is dedicated Department to handle litigation of the Department. In such eventuality, ignorance about judgment and decree in O.S. No. 133/2010 cannot be sustained. The PW-1 though claimed that, he could assimilate the documents within specified time but did not specify said documents. Apart from this, appellants did not

produce any documents along with this appeal. In such eventuality, the explanation offered appears to be hollow. It is worthwhile to note that, the delay committed in filing instant appeal is considerable one and during said period rights with respect to suit property accrued to respondent and he is in possession of the suit property with lawful rights and same cannot be disturbed without any cogent reasons. Apart from this, the O.S. No. 133/2010 is filed only for a relief of perpetual injunction and if appellants claim right thereon, the same does not preclude appellants to recover possession thereof by resorting to procedure of law. No doubt, appellants are the Public Officials and claim that, delay in filing instant appeal is caused due to collection of documents but did not specify the documents collected, which is a bureaucratic delay. It is well settled law that, bureaucratic delay is not a ground to condone delay in filing appeal. The said principle of law is supported by decision of Hon'ble Supreme Court report reported in **2026 ONLINE S.C.C. SC 191, (STATE OF ODISHA AND OTHERS VS., MANAGING COMMITTEE OF NAMATARA GIRLS HIGH SCHOOL)**. Wherein it is held that, when explanation offered is stereotyped and reflecting only procedural movement of files and also the cause shown was only a lame excuse, then delay committed in filing appeal should not be condoned. In this case also, appellants claimed that, delay committed is only due to collection of documents but did not specify documents required to be collected as such, said explanation does not appear to be plausible but is only a lame excuse. It is pertinent to note that, condonation of delay cannot be claimed as a matter of right but is entirely discretion of the

Court. The appellants have shown no cause, much less sufficient cause to exercise of discretion in their favor. In view of above this Court is of view that, appellants have not made out any grounds to allow this application. Considering facts of this case, it would not be just to impose cost on any of the parties to this appeal.

Accordingly, I answer Point No. 1 in the Negative.

9. **Point No. 2** : In view of discussion and conclusion arrived at Point No. 1, this Court proceeds to pass following :

ORDER

I. A. No. I filed by appellant U/Section 5 of the Limitation Act is hereby REJECTED.

Parties to bear their own costs.

(Dictated to the Stenographer directly on laptop, corrected and then pronounced by me in the Open Court on this the 02nd day of April 2026).

(Abdul Rahaman Pathan)
II Additional Senior Civil Judge
& JMFC., Kalaburagi &
C/C Senior Civil Judge & JMFC,
ALAND.