

MHAH130000072024

Presented on : 01/01/2024
Registered on : 01/01/2024
Decided on : 23/06/2026
Duration : Ys. Ms. Ds
02 05 22

IN THE COURT OF DISTRICT JUDGE-2,NEWASA
(Presided over by : R. R. Hastekar)

Civil M.A. No.02/2024**Exh.No. 19**

Rajendra Goma @ Gomaji Barde,
Age : 49 Years, Occu : Agril.
R/o. Karajgaon, Tal. Newasa,
Dist. Ahmednagar.**APPLICANT**
(defendant no. 1)

Versus

- 1] **Dattatray Murlidhar Purane,** (Plaintiff)
Age : 71 Years, Occu : Agril.
- 2] **Chandrakant Babasaheb Phulsaundar,**
(defendant no.2)
Age : 43 Years, Occu : Agril
Both R/o. Karajgaon, Tal. Newasa,
Dist.Ahmednagar.**RESPONDENTS**

Ld. ADVOCATES

For Applicant : Shri. R. B. Kolekar
For respondent no.1 : Shri. D. B. Jadhav
Respondent no.2 : Ex-parte

APPEAL : U/SEC.5 OF THE LIMITATION ACT
FOR CONDONATION OF DELAY.

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

(Delivered on this 23rd Day of June, 2026)

1. This application is filed for condonation of delay caused for preferring Appeal against Judgment and Decree dated 12/01/2018, in RCS No.913/2013.

2. Plaintiff Dattatray Murlidhar Purane has filed Regular Civil Suit No.913/2013 for recovery of possession of encroached portion, mesne profit and perpetual injunction against Rajendra Barde and Chandrakant Phulsaundar. The suit was decreed on 12.01.2018. Applicant Rajendra Barde (defendant no.1) is intending to challenge the Judgment and Decree dated 12.01.2018. However, delay is caused to him.

3. In the present application for condonation of delay, it is case of applicant Rajendra Barde that, Judgment and Decree was passed on 12.01.2018. He got knowledge of the Judgment and Decree on 26.07.2018 in R.D. No.96/2018. He and defendant no.2 Chandrakant Phulsaundar appeared in R.D.No.96/2018. However, thereafter, their Advocate had not given any information to them. Applicant Rajendra Barde filed Vakil Patra of another Advocate. However, during Covid-19 pandemic, the Learned Advocate left for heavenly abode. There was lock-down and Court functioning were closed. Applicant Rajendra Barde was having back-bone pain, he was operated in year 2019-2020. Thereafter, he was suffering from Chest pain

and was under treatment in Om Speciality Hospital and also in Sai Baba Hospital. Applicant Rajendra Barde is agriculturist and suffering from financial problems. Applicant Rajendra barde made application for certified copies on 06.09.2023. He received copies on 24.11.2023.

4. The points for determination along with my findings thereon are as under :

Sr. No.	POINTS	FINDINGS
I)	If applicant has shown sufficient causes for condonation of delay	No.
II)	What Order ?	As per final Order.

:: REASONS ::

AS TO POINT NO.1.

5. It is position put-forth by applicant that, he came to know about the Judgment and Decree on 26.07.2018. In the application nothing is stated as to what impediment was caused to applicant to prefer appeal in August 2018 or September 2018. It is very casually submitted by applicant that his Advocate did not give information of the dates in R.D. proceedings. However, such statement that, Advocate did not guide, can not be a sufficient cause

6. Applicant had given causes that Advocate appointed by him left for heavenly abode, and that, during pandemic, functioning of Courts were closed and that applicant was suffering with different diseases. However, these causes pertain to year 2020 and onwards. Applicant has not shown any cause that occurred during year 2018.

7. Applicant has filed prescription dated 31.12.2020 of Om Multi Specialty Hospital. He has filed ECG Report dated 03.08.2021. He has filed prescription of Om Multi Specialty Hospital dated 02.01.2022. I reiterate that, applicant had not shown any cause that restrained him from filing appeal in August 2018 or September 2018 or October 2018.

8. Respondent no.1 (plaintiff) filed say at Exh.14 and opposed the application. Respondent no.1 has also filed certified copies of Rojnama in R.D. No. 96/2018, application made by Judgment Debtors in R.D. No.96/2018 to show that applicant was attending Court in R.D. No.96/2018.

9. I, therefore, hold that applicant failed to show sufficient cause for the delay. Accordingly, I have given my finding to Point No.1 in the Negative.

AS TO POINT NO.2.

10. The application is liable to be rejected. Hence, I pass the following order.

:: ORDER ::

- 1) The application is rejected.
- 2) Parties shall bear their own cost of this application.

Date :- 23/ 06/2026.

[R. R. Hastekar]
District Judge – 2
Newasa.