

MHRT040005102019



ORDER BELOW EXH. 1 IN CIVIL MISCELLANEOUS APPLICATION

NO.48/2019

(CNR NO: MHRT040005102019)

**(Pandurang Tukaram Reshim (deceased) Through LR's & Ors. Vs.
Anand Jagannath Sarvankar & Ors.)**

1. This is an application under Section 5 of the Limitation Act seeking condonation of delay of 835 days in filing an appeal against the common order dated 21.01.2017 passed in Regular Civil Suit No. 36 of 2012.

2. The applicant submits that the respondent has filed Regular Civil Suit No.36/2012 against the applicant in the Mandangad Gram Nayalaya Court for recovery of money which was partly allowed on 21.01.2017. The applicant wants to file appeal against the said order. It is further submitted that due to illness, he was unaware about the date of decision. On receipt of notice, he was known about the decision on 26.03.2018. After enquiry at Dapoli, he was known that the suit was sent to Ratnagiri Court. Due to financial difficulty, he could not able to take copies of judgment and decree. Applicant is doing labour work and he is only earning person in his house. He has applied on 18.04.2019 at Ratnagiri Court for certified copies of judgment and decree which was received on 22.04.2019. Therefore, delay of 835 days occurred in filing appeal. If appeal is not filed, applicant would cause

irreparable loss in terms of money. Hence, prayed to allow the application.

3. The respondent resisted the application by filing say at Exhibit 41 and contended that the delay is of 835 days which is time barred as per Limitation Act and hence, not maintainable. The reasons mentioned are insufficient and not justifiable. In support of reasons, no any documentary evidence produced. Applicant was aware about the procedure and deliberately neglected the remedies. Despite financial difficulty, applicant has to follow the procedure. There is difference in between the date of application and receipt of certified copies. The reasons mentioned are suspicious. Hence, prayed to rejected the application.

4. I have perused the application and say filed by respondent. Heard both sides. In this case at Exhibit 2 the applicant filed the affidavit. Despite sufficient opportunity, the applicant failed to lead evidence. Hence, evidence of applicant closed on 18.03.2026 by passing order below Exhibit 1. The respondent has filed evidence closed pursis at Exhibit 46.

5. On consideration of the material on record, it appears that the delay occurred due to illness and financial difficulty of applicant. These constitute sufficient cause for condonation of delay. In the present case, no material is placed on record to show that the delay is deliberate, intentional, or actuated by mala fides. The explanation offered by the applicants indicates bona fide.

6. Further, if the delay is not condoned, the applicant would be deprived of an opportunity to challenge the impugned order on merits, which may result in miscarriage of justice. On the contrary, no serious prejudice would be caused to the respondents if the delay is condoned, as they would still have an opportunity to contest the appeal on merits. In view of the above, this Court is satisfied that the applicant has shown “sufficient cause” for condonation of delay. Hence, the application deserves to be allowed. Hence, the following order is passed:

ORDER

1. The application is allowed subject to payment of costs of Rs.500/- (Rs. Five Hundred only) to D.L.S.A.
2. After compliance of costs, delay of 835 days in filing the appeal shall be condoned.
3. The applicant shall take necessary steps to expedite the hearing of the appeal.

Khed.
Date-30/07/2026.

sd/-
(V. G. Patil)
District Judge – 1, Khed.

C E R T I F I C A T E

I affirm that, contents of this P.D.F.file Judgment/order are same, word to word, as per the original Judgment /order.

Name of the Stenographer	S.K.Inamdar, Grade - II
Name of the Court	District Judge-1, Khed, Dist. Ratnagiri.
Date of Pronouncement	30.07.2026
Judgment/order Signed On	30.07.2026
Judgment/order Uploaded On	30.07.2026