

**IN THE COURT OF PRINCIPAL DISTRICT JUDGE, WASHIM.****Order below Exh. 01**

(Dated 18/03/2026)

1. By the present application, the applicant is praying for condonation of delay in preferring an application for setting aside dismissal order of the appeal.
2. It is contended that RCS No. 51/2006 was decided by the Ld. Trial Court on 25/02/2010. The defendants preferred RCA No. 71/2010 and the said appeal was dismissed in default on 15/04/2017. It is alleged that the present applicant Anusaya is widow of deceased Laxman and she has two sons Vishnu and Devanand and four daughters and Vishnu has also died leaving behind Yamunabai and two sons and one daughter. The two sons and mother had prepared appeal challenging the order of the Ld. Trial Court. The applicant is illiterate lady and cannot read and write. Devanand is well educated and both sons also. It is contended that Devanand was looking after the appeal as he was educated. Devanand had appointed and instructed counsel. Vishnu and Anusaya were pursuing with him. Devanand in collusion with other side did not pursue appeal and did not take proper steps and hence, the appeal was dismissed on 15/04/2017. Devanand informed the petitioner that the appeal is pending and should be under impression that the appeal is pending before the Court.
3. On 23/11/2023, the petitioner received notice of execution proceedings filed by Prayagbai and when it was inquired, it was revealed that Devanand has misguided and the appeal was dismissed. From 23/11/2023, it takes some time to collect details and application and documents and therefore, application was preferred on 10/01/2024. It

is contended that there is delay of 2513 days in prosecuting the present application for restoration of the appeal. The applicant was under misrepresentation and she will suffer huge loss therein.

4. The said application came to be resisted by original plaintiff/respondent No. 1 herein. It is pointed out that present application is preferred after more than seven years of appeal being dismissed in default. The present respondent has not got fruits of decree even after 14 years of passing of the decree. Devanand was not sole party in the family, there was other members in the family and hence, no proper and reasonable grounds are made out.
5. The opponent No. 2 Devanand filed reply contending that false contentions are raised in the application and as only present appellant has filed and same is required to be dismissed.
6. The opponent Nos. 3 and 4 filed reply vide Exh. 25 contending that they had preferred suit for partition and same was decreed on 25/02/2010 and appeal came to be preferred which came to be dismissed in default. The execution proceedings bearing Nos. 8/2022 and 6/2024 have been preferred which are pending in the Court. No steps were taken and no just and sufficient cause are made out to condone the delay. Vishnu has died but LRs are not taken on record. It is necessary to point out that the appeal was never diligently pursued. 70 dates were given for payment of process and not giving of process and thereafter, it was dismissed on 15/04/2017. The applicant has herself deposed in the suit and filed her WS. Vishnu had filed an application before for payment of Court fees and thus, both Vishnu as well as present applicant were pursuing the appeal. In fact, Devanand did not contest the suit and suit was contested by the present appellant. As Devanand did not contest the

suit, it cannot be said that Devanand was looking after litigation. The non-applicants, original decree holders are kept away from the fruits of the decree. Hence, the application be rejected.

7. Heard both sides. Considered the submissions advanced. Following points arise for my consideration and I answer the same as under for the reasons stated hereinafter.

Sr. No.	Points	Findings
1]	Whether the applicant makes out just and sufficient cause ?	<b>... In the negative.</b>
2]	What order ?	<b>... As per final order.</b>

### **REASONS**

#### **As to Point no. 1 :-**

8. As we consider the application and the argument advanced, it was tried to point out that Devanand is sole person who was looking after the appeal as well as proceedings. Apparently, the trial Court proceedings indicate that otherwise, showing applicant who was actively pursuing suit and had deposed therein and also had filed WS. Devanand did neither. Reply has been filed by Devanand denying all the allegations against him.
9. For the sake of argument, let us assume that Devanand has defected against applicant. The date of such alleged defection, or period of such defection or when the applicant had knowledge of defection is conspicuously absent in the application. It is necessary to point out that every party should be diligent in prosecuting their own case. A long inaction shows negligence.
10. It is necessary again to note that the execution proceedings were filed

in the year 2022. Notices were also issued therein. In such circumstances, it is really difficult to comprehend with regard to the contentions raised that the applicant was unaware and Devanand was keeping her under false impression. Not only Devanand, but their son Vishnu who died five years after appeal was dismissed was also present.

11. In such circumstances, if we consider the proceedings in the appeal, it is clear that the applicant never took any interest in the appeal and it appears to have been filed namesake. In such circumstances, I hold that both Vishnu and applicant were looking after litigation and in fact, Devanand is away from the litigation. No explanation is given by the applicant of this fact. In such circumstances, no just and sufficient cause is made out to condone the delay. It is again clarified that the cause is seen and not the period. Sufficient cause is not made out. Hence, I answer point No. 1 in negative and pass the following order -

**ORDER**

- 1] The application is hereby rejected.
- 2] No order as to costs.
- 3] Civil MA No. 9/2024 stands disposed off.

Washim  
Date - 18/03/2026

**(Anil Subramaniam)**  
Principal District Judge,  
Washim.

**CERTIFICATE**

I affirm that the contents of this PDF file word to word are same as per original judgment/order.

Name of Stenographer	:	A. W. Ajmire, Steno (Grade II)
Court Name	:	Principal District & Sessions Judge, Washim.
Date of order/Judgment	:	18/03/2026
Judgment Dictated on	:	18/03/2026
Order/Judgment signed by Presiding Officer on	:	20/03/2026
Order/Judgment uploaded on	:	23/03/2026