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**IN THE COURT OF DISTRICT JUDGE, CHITRAKOOT**

**Present- Shesh Mani.....HJS**

UPCH010027422025



**Civil Misc. Case No. 36 / 2025**

1. Santu son of Chandu Kol aged about 35 years, resident of village Pandari, Tehsil Karwi, District Chitrakoot.

.....Appellant/ Defendant.

Vs.

1. Mithailal aged about 52 years

2. Raju aged about 43 years

3. Bablu aged about 27 years

sons of Late Shiroman, Resident of Pandari, Tehsil Karwi District Chitrakoot.

4. Puniya @ Chhoti, Bewa Shiroman, aged about 81 years, Resident of Village Pandari, Tehsil Karwi, District Chitrakoot. (since deceased).

.....Respondents/Plaintiffs.

**Under Section- 5 of the Limitation Act 1963.**

**07.04.2026:**

Case called out. Appellant is present with his learned Counsel Shri Satyahan Yadav and learned Counsel Shri Lakhan Lal Chaudhary is present on behalf of respondents.

2. Present Civil Appeal is directed against the judgment dated 09.05.2016 and decree dated 23.05.2016 passed by the learned Civil Judge (Junior Division), Chitrakoot, in Original Suit No. 320 of 2013 Mithailal & Others Vs. Santu whereby the suit for permanent injunction was decreed. Since appeal is time barred, therefore, an application 6 C has been moved under Section 5 of the Limitation Act 1963 seeking condonation of delay in filing the appeal.

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**3.** In application 6 C, it is stated that the appellant is illiterate labourer. He went to other State Surat and Maharashtra in connection with wages. Due to lockdown on account of Covid Pandemic, he could not return home, as a result of which suit was exparte decreed and appeal was not preferred within time. It is also stated that due to negligence of previous counsel and for want of knowledge, he could not peruse the case. In the month of October 2025, when he came his house and got the case file inspected through other counsel, he came across about exparte judgment. The delay has not been caused deliberately. On the basis of above averments, prayer has been made for condonation of delay in filing appeal.

**4.** Opposite parties filed objection 25 C wherein it is stated that the appellant never went another State in connection with the wages. He was aware about judgment dated 09.05.2016. Despite having the knowledge of the case, deliberately the appeal has not been preferred within time. The application 6 C for condonation of delay is not maintainable and liable to be rejected.

**5.** Heard the learned counsels for the parties and perused the record.

**6.** Shri Satyahan Yadav, learned counsel for Appellant submits that appellant is a labourer and he was out of station in connection with wages and due to covid pandemic, he could not return home. The learned counsel for the appellant further submits that the appellant neither had information about the judgment nor his previous counsel did pairwi in the case and the appeal could not be filed within time prescribed under Indian Limitation Act 1963.

**7.** Per Contra, learned counsel Shri Lakhan Lal Chaudhary appearing on behalf of respondent/opposite parties submits that the appellant (defendant therein) was present during the proceedings of the original suit. Thereafter he became absent as a result of which the exparte judgment was passed on 09.05.2016. The appeal is highly time barred and the appellant does not deserve any leniency by this Court.

**8.** From the perusal of original record of Original Suit No. 320/2013 Mithailal & Others Vs. Santu, it transpires that the said suit was filed on 06.12.2013 before Civil Judge (Junior Division), Chitrakoot. The order sheet further reveals that the defendant appeared on 06.01.2014 and vakalatnama was filed on record. On 13.01.2014 further, defendant Santu

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was present before the Court. Further on date 13.01.2014, 06.03.2014, 11.04.2014 and 17.05.2014 Santu was present before the Court. On date 21.10.2014 another vakalatnama was filed for defendant Santu and the last opportunity was granted for filing written statement. Thereafter dates 12.01.2015 & 24.02.2015 were fixed. On 31.03.2015 due to absence of defendant, the matter proceeded ex parte. The evidences were adduced and finally ex parte judgment was passed on 09.05.2016..

**9.** Now the question is as to whether the delay caused by the appellant comes within the category “sufficient cause” as provided under Section 5 of the Indian Limitation Act 1963?

**10.** ‘Sufficient cause’ is a condition precedent for condoning delay under Section 5 of the Limitation Act, 1963. The Hon’ble Supreme Court in the **State of West Bengal versus Administrator Howrah Municipality, AIR 1972, S.C. 749** has observed that it is not possible to lay down precisely as to what facts or matter would constitute ‘sufficient cause’ under Section 5 of the Limitation Act.

**11.** The expression ‘sufficient cause’ has not been defined in Limitation Act, 1963. It means a cause which is beyond the control of the party invoking the aid of the provision authorizing condonation. The test whether or not a cause is sufficient is to see whether it is a bonafide cause, because nothing shall be taken to have been done in the good faith which is not done with due care or caution. In other words the test is whether or not a cause is sufficient to see whether it could have been avoided by the party by the exercise of due care and attention.

**12.** It is evident from record that the defendant (appellant herein) was appearing during proceedings in Original Suit. Applications were also filed. Last opportunity was also granted but he did not file written statement and the matter proceeded ex parte which terminated in ex parte judgment. Record further transpires that defendant (appellant herein) was fully aware about the proceedings but he neither appeared nor filed written statement. The ground for delay narrated in the application does not falls under “sufficient cause”.

**13.** At this stage, the learned counsel for applicant submits that his property is not lying under plot no. 528 as decreed by the learned Civil Judge (Junior Division), Chitrakoot. It is needless to state that executing

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court is fully empowered to determine the identity of the land and the opportunity is open to the appellant to ventilate his claim before the Court.

**14.** The sequitur of the above discussion is that the present application 6 C is sans merit and liable to be rejected.

**ORDER**

Application Number 6 C moved under Section 5 of the Limitation Act 1963, for condonation of delay in filing the appeal, is hereby rejected. The appeal is accordingly dismissed. Record be consigned.

Dated: 07.04.2026

**(Shesh Mani)**  
District Judge  
Chitrakoot  
J.O. Code- UP 5751