

**IN THE COURT OF ADDITIONAL DISTRICT JUDGE, 2ND COURT,
ULUBERIA, HOWRAH**

Present : Atrayee Manna Chowdhury, of ADJ, 2nd Court, Uluberia, Howrah
(JO Code : WB 00848)

Title Appeal No. 13/2020 (CIS Reg. no.13/20)
CNR No.WBHW09-000354-2020

Order No.31 Dated 05.06.2025.

Today is fixed for order.

Appellants file *hajirah*.

Respondent takes no step.

Record is now taken up for passing order.

This is an application under Section 5 of the Limitation Act.

The Appellants preferred the instant Title Appeal on 27.02.2020 against the judgment dated 06.12.2019 passed by Ld. Civil Judge, (Sr. Divn.), Uluberia in Title Suit No.266/2017 for non taking of steps by the plaintiffs. Now, in this petition under consideration, it has been claimed that though the impugned judgment was passed on 06.12.2019, actually it came to the notice of the appellants/ plaintiffs on 13.01.2020. Immediately the appellants / plaintiffs applied for the certificate copy of the judgment and they got on the self same date. That soon thereafter the appellant No.1 fell ill and recovered from his illness on 10.02.2020. After recovery appellant no.1 met his lawyer on 20.02.2020 and instructed him to prefer an appeal. As such the instant appeal is filed but in the meantime the statutory period elapsed. The delay is not intentional. It is circumstantial, serious questions of law are raised in the instant appeal. As such filing the application appellants have prayer for condonation of delay in filing the instant appeal.

No written objection has been filed against the prayer under section 5 of the Limitation Act by the respondents. Neither the respondents have taken any steps as stated above.

On a proper conspectus of the materials on record it appears that the causes shown by the plaintiff regarding non-taking of steps by the appellants before the Court has not been substantiated by any cogent evidence. However, it appears that the appellants are willing to contest the case.

As regard to the point of limitation I can not be oblivious to the proposition of law prescribed by the Hon'ble Apex Court in this regard. Time and again Courts have been asked to be liberal in dealing with this question. While assessing as to whether every days delay has been explained or not, the

Court must not take a pedantic view but should apply rationality and common sense in a pragmatic manner. Keeping this views in my mind if I look back the petition at hand, it is obvious that the approach of the petitioners in explaining the delay in question is acceptable viewed from a widely liberal view. All the moreso, when the delay caused are not anything which can not be taken care of with payment of compensatory costs.

In view of the foregoing discussions I do not have any hesitation to infer that the prayer of the appellants merits to be allowed albeit with costs.

Hence, it is,

ORDERED

that the petition u/s 5 of the Limitation Act submitted by the appellants is allowed, subject to payment of costs amounting Rs. 1500/- to the SDLSC, Uluberia as a condition precedent.

To **28.07.2025** for submission of receipt showing payment of cost and hearing of appeal.

Dictated & Corrected by

Additional District Judge,
2nd Court, Uluberia, Howrah

Additional District Judge,
2nd Court, Uluberia, Howrah