

IN THE COURT OF DISTRICT JUDGE,
SOUTH 24-PARGANAS AT ALIPORE

Title Appeal No. 94 of 2024

Present : Sri Anindya Banerjee (WB00868) District Judge-in-charge

SRI HARENDRA NATH MANDAL

... APPELLANT

VS.

SMT. SRABANTI MRIDHA

... RESPONDENT

Order No. 14, dated 19.08.2026

The date is fixed for hearing of the application under Section 5 of the Limitation Act.

Parties have filed their respective haziras.

The application filed under Section 5 of the Limitation Act is taken up for hearing in presence of Ld. Advocates appearing for both parties.

Ld. Advocate for the appellant prayed for condonation of delay in filing of the instant appeal manifesting the grounds that the instant Title Appeal has been filed being aggrieved with the judgment dated 17.01.2024 passed in Title Suit No. 488 of 2012 by the Ld. Civil Judge (Jr. Divn.), 1st Court, at Alipore, South 24 Parganas. Ld. Advocate further submitted that the certified copy of the said judgment was applied on 18.06.2024 on behalf of the appellant and that the appellant had no knowledge about the statutory time limit of filing an appeal and, thereafter, contacted a new set of Advocate. Ld. Advocate for the appellant further contended that the

appellant suffered from various types of ailments and that on 17.01.2024, respondent and her mother threatened the appellant with dire consequences if the appellant preferred any appeal in respect of the impugned judgment. Ld. Advocate for the appellant averred that the delay is not owing to any laches on the part of the appellant and if the delay is not condoned and if the appeal is not admitted, then the appellant would suffer irreparable loss and injury and filing of the instant appeal would be rendered infructuous.

In support of such contentions, the appellant has filed medical document and some other documents.

Per contra, Ld. Advocate for the respondent raised strong objection to the application seeking condonation of delay and submitted that the delay has not been properly explained in the application seeking condonation of delay. Ld. Advocate strongly rebutted the averments made in the instant application seeking condonation of delay and submitted that the mother of the respondent could not have threatened the appellant on 17.01.2024 as the mother of the respondent, namely, Gita Mondal, had passed away on 20.03.2023 and, thus, it is impossible for a deceased person to threaten the appellant. Ld. Advocate drew attention of this Court to the photocopy of Death Certificate of Gita Mondal. As such, Ld. Advocate for the respondent prayed for rejection of the application filed under Section 5 of the Limitation Act.

Heard the submissions so made on behalf of both parties.

Perused the record, the instant application seeking condonation of delay and the materials on record.

Upon perusal of the record, it appears that the instant appeal has been filed being aggrieved and dissatisfied with the judgment dated 17.01.2024 passed in Title Suit No. 488 of 2012 by the Ld. Civil Judge (Jr. Divn.) 1st Court at Alipore, South 24 Parganas.

It is trite law that when it comes to dealing with applications for condonation of delay, a liberal approach should generally be adopted by Courts, especially when the delay is not intentional and is genuine. Needless to reiterate here that the process for consideration of the limitation matter has been dealt with by the Hon'ble Courts in plethora of judgments and as settled, the expression "sufficient cause" should be given liberal interpretation to ensure that substantial justice is done subject to a rider that there exists no negligence, inaction or lack of bonafideness by the party concerned. But there always stands a distinction if the delay as sought for condonation appears to be inordinate or of short duration/few days.

In the instant case, it has been averred by the appellant that after passing of the impugned judgment on 17.01.2024, the application for obtaining of the certified copy of judgment was filed only on 18.06.2024. However, there is no explanation as regards the cause for delay of five months i.e. from 17.01.2024 (the date of passing of the impugned judgment) to 18.06.2024 (the date when the certified copy was applied for by the appellant). It has also been averred that the appellant suffered from various ailments, however, there is no explanation as regards the date of such onset of medical ailment, the period of rest and the duration of recovery. It also appears from the record that there is an allegation regarding the respondent and her mother threatening the appellant on 17.01.2024,

however, it appears from the photocopy of Death Certificate that the mother of the respondent passed away on 20.03.2023.

In **N Balakrishnan Vs. M Krishnamurthy, (1998) 7 SCC 123**, the Hon'ble Supreme Court made the following observation:

*“It is axiomatic that condonation of delay is a matter of discretion of the court. Section 5 of the Limitation Act does not say that such discretion can be exercised only if the delay is within a certain limit. Length of delay is no matter, acceptability of the explanation is the only criterion. **Sometimes delay of the shortest range may be uncondonable due to want of acceptable explanation** whereas in certain other cases delay of very long range can be condoned as the explanation thereof is satisfactory...”*

(emphasis supplied)

The averments of the appellant as regards delay caused in filing the appeal does not appear to be sufficient, cogent and genuine and day to day explanation has not been property explicated in the application filed under Section 5 of the Limitation Act.

Thus, considering the overall facts and circumstances of the case and the grounds as assigned by the appellant in the application for condonation of an inordinate delay of about 112 days which warrants strict approach, this Court fails to take a liberal approach in condoning the delay in filing the instant appeal.

Hence, it is,

ORDERED

that the application filed under Section 5 of the Limitation Act is considered and rejected on contest, however, without any order as to costs.

Consequently, the instant Title Appeal is, thus, not admitted.

The Title Appeal is, thus, disposed of along with all pending interlocutory application(s), if any.

Note the same in the C.I.S and Register.

Interim orders, if any, shall stand vacated.

Dictated & corrected by me

Sd/- Sri Anindya Banerjee

District Judge, I/c

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