

***Title Appeal No. 70 of 2025***

Order No. 05 dated 17.04.2026

Both parties files hazira.

Today is fixed for hearing of the petition U/s 5 of the Limitation Act.

The record is taken up for hearing of the petition U/s 5 of the Limitation Act in presence of both sides.

The instant appeal was filed being dissatisfied with the order dated 19.06.2025 passed by Ld. Civil Judge (Jr. Divn), 2<sup>nd</sup> court Sealdah in TS No. 278 of 2000 in dismissing the counterclaim of the appellant.

It appears that there was a delay of 100 days for filing of the instant appeal and as such, a petition under section 5 of the Limitation Act was filed by the appellant and the same is taken up for hearing.

Heard Ld. Advocate for the appellant and Ld. Advocate for the respondent.

Perused the copy of the impugned order. Considered.

It appears that against the judgment and decree of the Trial court appellant have filed Title appeal no. 60 of 2005 but against the dismissal order of counterclaim no appeal was filed by the Ld. Advocate of the appellant in due time. The act of the Ld. Advocate was not proper and lack of knowledge hence this appeal is filed with a prayer for condonation of delay of 100 days. By mentioning the verdict of Hon'ble Court in 2026 (1) Indian Civil Cases (Cal) 199, 1999 (2) Mh.L.J 272 and (1998) 7 SCC 123 submitted that court must adopt liberal approach while dealing with the matter relating condonation of delay. Acceptability of explanation of the delay is the sole criteria, length of delay is not relevant.

By filing objection respondent mentioned that delay is not duly described and day to day delay is not explained. By mentioning the verdict of Hon'ble Court in AIR 1962 SC 361 stated that a party is not entitled to the condonation of delay in question as a matter of right. There must be sufficient cause and reason of delay must be duly explained.

After perusal of the case record, and the directions of the Hon'ble Courts regarding sufficient cause and the reasons this court holds the view that the reasons mentioned in the petition is satisfactory and accordingly, delay for filing of the appeal is hereby condoned. Accordingly, the Title appeal is admitted.

Let the application U/s 5 of the Limitation Act is hereby disposed of as per above observation.

To **20.05.2026** for hearing of the appeal along with stay petition.

Call for LCR.

BC-II to comply.

D/C by me,

ASJ-I

(Sharanya Sen Prasad)/WB-690,  
Addl. Sessions Judge ,  
1<sup>st</sup> Court, Sealdah  
South 24-Parganas