



HIGH COURT OF CHHATTISGARH AT BILASPUR

FA No. 8 of 2021

SMT. NEERA BAI (Died and Deleted) **versus** PRAKASH
NIRMALKAR

Order on Board

23/03/2026	Mr. Vivek Kumar Tripathi, learned counsel for the appellant. Mr. Sanjay Patel, learned counsel for respondent. Heard on I.A. No. 1/2021, an application under Section 5 of the Limitation Act for condonation of delay in filing the appeal. Learned counsel for the appellant submits that the present appeal has been preferred with a delay of 1037 days. It is contended that the delay occurred as the appellant had initially filed an MCC bearing No. 105/2018 seeking permission to file the appeal as an indigent person; however, the same was rejected on 11.02.2020 on the ground that the appellant did not fall within the category of an indigent
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person. Thereafter, the present appeal has been filed along with the instant application for condonation of delay. It is submitted that the delay is attributable to the pendency of the said MCC.

Learned counsel for the respondent opposes the application and submits that the delay in filing the appeal has not been sufficiently explained. It is contended that the application filed by the appellant seeking permission to file the appeal as an indigent person was not bona fide and was only intended to delay compliance with the money decree passed by the trial Court in favour of the respondent. It is further submitted that even till date, the appellant has not complied with the said decree and, therefore, appropriate directions be issued in this regard.

I have heard learned counsel for the parties and perused the application for condonation of delay along with the reply filed thereto.

From the pleadings and the material available on record, it appears that MCC No. 105/2018 was filed by the appellant seeking permission to file a regular first appeal as an indigent

person for exemption from payment of court fees. The said application came to be rejected by this Court on 11.02.2020. Thereafter, the present appeal has been filed.

Be that as it may, the appeal has been preferred against a money decree passed in favour of the respondent, which admittedly has not been satisfied till date. However, considering that the appellant had earlier pursued the remedy by filing the MCC and substantial time was consumed in prosecuting the said application, this Court is of the view that sufficient cause has been shown for condonation of delay.

Accordingly, the application under Section 5 of the Limitation Act is allowed, subject to the condition that the appellant shall deposit 50% of the decretal amount within a period of 20 days from today.

List the case after 20 days.

The appellant shall file an affidavit regarding compliance of the aforesaid condition.

Certified copy today.

Sd/-

(BIBHU DATTA GURU)
Judge

Rahul