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NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****FA No. 34 of 2021**

- 1** - Gaytri Singh W/o Anil Kumar Singh Aged About 50 Years R/o Kedarpur, Ambikapur, District Surguja (Chhattisgarh).
- 2** - Preeti Singh W/o Shashikant Singh Aged About 40 Years R/o Kedarpur, Ambikapur, District Surguja (Chhattisgarh). **... Appellants**

versus

- 1** - Iqbal Kaur Wd/o Jashpal Singh Aged About 70 Years R/o Babupara, Jail Road, Near Gurudwara, Ambikapur, Surguja (Chhattisgarh).
- 2** - Prithvipal Singh S/o Late Guljar Singh Aged About 55 Years R/o Babupara, Jail Road, Near Gurudwara, Ambikapur, Surguja (Chhattisgarh).
- 3** - Tejendar Pal Singh S/o Late Guljar Singh Aged About 50 Years R/o Babupara, Jail Road, Near Gurudwara, Ambikapur, Surguja (Chhattisgarh).
- 4** - Narendra Pal Singh S/o Late Guljar Singh Aged About 48 Years R/o Babupara, Jail Road, Near Gurudwara, Ambikapur, Surguja (Chhattisgarh).
- 5** - Jagjit Singh S/o Late Guljar Singh Aged About 45 Years R/o Babupara, Jail Road, Near Gurudwara, Ambikapur, Surguja (Chhattisgarh).

... Respondents**(Cause title, as taken from CIS)**

For Appellants	:	Mr. Anurag Singh, Advocate
For Respondents	:	Mr. Sanjay Agrawal, Advocate.

(Hon'ble Shri Justice Naresh Kumar Chandravanshi)**Order on Board****08/08/2025**

1. Heard on I.A. No.02/2021, application under Section 5 of the Limitation Act.
2. This first appeal under Section 96 of the Code of Civil Procedure, has



been preferred by the appellants along with aforesaid application challenging the judgment and decree dated 26.11.2016 (Annexure A-1) passed by the Fifth Upper District Judge, Surguja (Ambikapur), Chhattisgarh in Civil Suit No.26A/2014, whereby the civil suit for specific performance of contract and permanent injunction filed by appellants has been dismissed.

3. Learned counsel for the appellants would submit that, both appellants are mother and daughter in relation. Anil Kumar Singh, who is husband of appellant No.1, has been suffering from *Primary Hypothyroidism* since 2012, therefore appellants were busy in his treatment, which is continuing till date. Appellant No.1 has also been suffering from *Asthma & Cystic Glandular Hyperplasia-Endometrium* since 2015. She was in continuous treatment of aforesaid disease. For getting treatment, appellant No.1 and her husband frequently used to go to Hyderabad and Raipur, therefore, delay of 1,120 days occurred in filing instant appeal after deducting 365 days in getting certified copy.
4. *Per contra*, learned counsel for the respondents would submit that Civil Suit No.26A/2014 filed by appellants/plaintiffs for specific performance of contract, which was allegedly entered between the parties in the year 2001, that too, was oral contract, but the suit was filed by appellants/plaintiffs in the year 2014, thus, the civil suit filed by them itself was belated. He would further submit that after lapse of more than 3 years, the appellants have filed instant appeal without showing any sufficient cause to show their bonafideness in filing belated appeal. He further submitted that, though bulk of medical documents (page No.35 to 202) have been filed by the appellants, but none of the documents shows, as to why the appellants were unable to contact their counsel.



Further, if they were able to travel to Raipur and Hyderabad for getting medical treatment, then they can also file appeal through counsel. Only because of suffering of appellant No.1 and her husband from some disease do not entitle them to file such belated appeal. Hence, huge delay of 1120 days in filing instant appeal may not be condoned.

5. I have heard learned counsel for the parties and perused the material available on record.
6. Instant appeal has been filed by the appellants on 19.03.2021 challenging the judgment and decree dated 26.11.2016 passed by Fifth Upper District Judge, District Surguja (Ambikapur), Chhattisgarh in Civil Suit No.26A/2014. Though total delay in filing instant appeal is 1577 days, but as per the registry note, delay of 365 days occurred in getting certified copy is found to be wrong as counsel for the appellants himself conceded that as per endorsement made by Copying Section of District Court, Ambikapur on the certified copy of the impugned judgment, application for certified copy was filed on 03.03.2021 and it was delivered on 04.03.2021. Thus, delay in obtaining certified copy is only two days. Aforesaid fact shows that the instant appeal has been filed by appellants after delay of more than 1577 days.
7. Reason shown in filing belated appeal is that appellant No.1 and her husband are suffering from said diseases, but documents annexed by the appellants do not show that because of said diseases, they were unable to contact their counsel and unable to move here and there, rather counsel for the appellants himself stated that they used to go to Raipur and Hyderabad on various occasions for getting medical treatment. Having considered aforesaid fact, it is not acceptable that because of said diseases appellants were unable to file appeal.



Further, nothing has been stated by counsel for the appellants that why appellant No.2 was unable to file appeal.

8. In case of **Balwant Singh Vs. Jagdish Singh** reported in **(2010) 8 SCC 685**, the Hon'ble Supreme Court in paragraphs 25 and 26 has observed as under :

"25. We may state that even if the term 'sufficient cause' has to receive liberal construction, it must squarely fall within the concept of reasonable time and proper conduct of the party concerned. The purpose of introducing liberal construction normally is to introduce the concept of 'reasonableness' as it is understood in its general connotation.

26. The law of limitation is a substantive law and has definite consequences on the right and obligation of a party to arise. These principles should be adhered to and applied appropriately depending on the facts and circumstances of a given case. Once a valuable right has accrued in favour of one party as a result of the failure of the other party to explain the delay by showing sufficient cause and its own conduct, it will be unreasonable to take away that right on the mere asking of the applicant, particularly when the delay is directly a result of negligence, default or inaction of that party. Justice must be done to both parties equally. Then alone the ends of justice can be achieved. If a party has been thoroughly negligent in implementing its rights and remedies, it will be equally unfair to deprive the other party of a valuable right that has accrued to it in law as a result of his acting vigilantly."

9. In another case, Hon'ble Supreme Court in **Maniben Devraj Shah Versus Municipal Corporation of Brihan Mumbai, (2012) 5 SCC 157** in paragraphs 23 and 24 has held as under:

"23. What needs to be emphasised is that even though a liberal and justice-oriented approach is required to be adopted in the exercise of power under Section 5 of the



Limitation Act and other similar statutes, the courts can neither become oblivious of the fact that the successful litigant has acquired certain rights on the basis of the judgment under challenge and a lot of time is consumed at various stages of litigation apart from the cost.

24. What colour the expression "sufficient cause" would get in the factual matrix of a given case would largely depend on bona fide nature of the explanation. If the court finds that there has been no negligence on the part of the applicant and the cause shown for the delay does not lack bona fides, then it may condone the delay. if, on the other hand, the explanation given by the applicant is found to be concocted or he is thoroughly negligent in prosecuting his cause, then it would be a legitimate exercise of discretion not to condone the delay."

10. The aforesaid principle has been further reiterated by Hon'ble Supreme Court in ***Esha Bhattacharjee Versus Managing Committee of Raghunathpur Nafar Academy and others, {(2013) 12 SCC 649}*** wherein paragraphs 21.9(ix) and 21.10(x) it has been held as under:

"21.9.(ix) The conduct, behaviour and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go by in the name of liberal approach.

21.10.(x) If the explanation offered is concocted or the grounds urged in the application are fanciful, the courts should be vigilant not to expose the other side unnecessarily to face such a litigation."

11. The Hon'ble Apex Court in the matter of ***Pathapati Subba Reddy (Died) By L.Rs. & Ors. Versus The Special Deputy Collector (LA)***



reported in **2024 SCC Online SC 513** has held in paragraphs 17, 18, 19, 20 & 21, as under:-

“17. It must always be borne in mind that while construing ‘sufficient cause’ in deciding application under Section 5 of the Act, that on the expiry of the period of limitation prescribed for filing an appeal, substantive right in favour of a decree-holder accrues and this right ought not to be lightly disturbed. The decree-holder treats the decree to be binding with the lapse of time and may proceed on such assumption creating new rights.

*18. This Court as far back in 1962 in the case of **Ramla, Motilal And Chhotelal vs. Rewa Coalfields Ltd** reported in **AIR 1962 SC 361** has emphasized that even after sufficient cause has been shown by a party for not filing an appeal within time, the said party is not entitled to the condonation of delay as excusing the delay is the discretionary jurisdiction vested with the court. The court, despite establishment of a ‘sufficient cause’ for various reasons, may refuse to condone the delay depending upon the bona fides of the party.*

*19. In **Maqbul Ahmad vs. Onkar Pratap Narain Singh and Ors.** reported in **AIR 1935 PC 85**, it had been held that the court cannot grant an exemption from limitation on equitable consideration or on the ground of hardship. The court has time and again repeated that when mandatory provision is not complied with and delay is not properly, satisfactorily and convincingly explained, it ought not to condone the delay on sympathetic grounds alone.*

*20. In this connection, a reference may be made to **Brijesh Kumar vs. State of Haryana** reported in **(2014) 11 SCC 351** wherein while observing, as above, this Court further laid down that if some person has obtained a relief approaching the court just or immediately when the cause of action had arisen, other persons cannot take the benefit of the same by approaching the court at a belated stage simply on the ground of parity, equity, sympathy and compassion.*

*21. In **Lanka Venkateswarlu vs. State of Andhra Pradesh** reported in **(2011) 4 SCC 363** where the High Court, despite unsatisfactory explanation for the delay of 3703 days, had allowed the applications for condonation of delay, this Court held that the High Court failed to exercise its discretion in a reasonable and objective manner. High*



Court should have exercised the discretion in a systematic and an informed manner. The liberal approach in considering sufficiency of cause for delay should not be allowed to override substantial law of limitation. The Court observed that the concepts such as 'liberal approach', 'justice-oriented approach' and 'substantial justice' cannot be employed to jettison the substantial law of limitation."

- 12.** Having considered cause shown by appellants in filing instant belated appeal and law laid down by Hon'ble Apex Court, it cannot be said that delay is bona fide, and satisfactory & plausible explanation has been given by the appellants. Rather, it is found that there is gross negligence on part of the appellants/applicants and explanation given by them is found to be concocted, therefore, I do not feel inclined to condone huge delay of 1577 days in filing instant appeal. Hence, I.A. No.02/2021, application under Section 5 of the Limitation Act is dismissed. Consequently, this first appeal is also **dismissed**. No orders as to cost(s).
- 13.** Pending interlocutory application(s), if any, stands disposed of.

Sd/-
(Naresh Kumar Chandravanshi)
JUDGE