



2026:CGHC:3575

**NAFR**

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**SA No. 282 of 2014**

Lallu Ram S/o Late Chandu Ram Sahu Aged About 68 Years R/o  
Village Lahoda, Tahsil And District Baloda-Bazar, Chhattisgarh

**..Appellant(s)**

**versus**

**1.** Tukaram Decease through LRs

**1.a** - Deleted Smt. Pawaria Bai

**1.b** - Shri Mohita Ram S/o Late Shri Tuka Ram, Aged About 52  
Years R/o Village Lahoda, Tahsil And District Baloda-Bazar,  
Chhattisgarh

**1.c** - Mohan S/o Late Shri Tuka Ram, Aged About 48 Years R/o  
Village Lahoda, Tahsil And District Baloda-Bazar, Chhattisgarh

**1.d.** Shri Pyare S/o Late Shri Tuka Ram, Aged About 46 Years R/o  
Village Lahoda, Tahsil And District Baloda-Bazar, Chhattisgarh

**1.e** Rakesh S/o Late Shri Tuka Ram, Aged About 42 Years R/o  
Village Lahoda, Tahsil And District Baloda-Bazar, Chhattisgarh

**1.f** Punnatini Bai D/o Late Tukaram, Aged About 40 Years R/o  
Village Lahoda, Tahsil And District Baloda-Bazar, Chhattisgarh

**1.g** - Kamala Bai D/o Late Tukaram, Aged About 37 Years R/o  
Village Lahoda, Tahsil And District Baloda-Bazar, Chhattisgarh

**1. h** Vimala Bai D/o Late Tukaram, Aged About 35 Years R/o  
Village Lahoda, Tahsil And District Baloda-Bazar, Chhattisgarh

**2 - Dayalal Deceased through Lrs**

**2.a** - Pitar Bai Wd/o Late Dayalal Sahu, Aged About 70 Years R/o Village Lahoda, Tahsil And District Baloda-Bazar, Chhattisgarh

**2.b** - Hari Kishan S/o Late Shri Dayalal Sahu, Aged About 48 Years R/o Village Lahoda, Tahsil And District Baloda-Bazar, Chhattisgarh

**3** - Ramadhar S/o Late Shri Bhakua Sahu Aged About 77 Years Now Deceased, Chhattisgarh

**3.i** - Dhanesh Aged About 35 Years R/o Village Lahoda, Tahsil And District Baloda-Bazar, Chhattisgarh

**3.ii** - Ghanshyam S/o Late Ramadhar, R/o Village Lahoda, Tahsil And District Baloda-Bazar, Chhattisgarh

**4** - Ram Ratan S/o Late Naudu Sahu, Aged About 77 Years R/o Village Lahoda, Tehsil And District Baloda-Bazar, Chhattisgarh, District : Balodabazar-Bhathapara, Chhattisgarh

**5** - Nathu Ram S/o Late Shri Nandu Sahu, Aged About 55 Years R/o Village Lahoda, Tehsil And District Baloda-Bazar, Chhattisgarh, District : Balodabazar-Bhathapara, Chhattisgarh

**6** - Purushottam S/o Late Nandram Sahu, Aged About 72 Years R/o Village Lahoda, Tehsil And District Baloda-Bazar, Chhattisgarh, District : Balodabazar-Bhathapara, Chhattisgarh

**7** - Mrs. Mantha Bai Deceased through LRs

**7.i** - Ilabai D/o Late Chetan Sahu, Aged About 27 Years R/o Village Lahoda, Tahsil And District Baloda-Bazar, Chhattisgarh

**8.** State Of Chhattisgarh, Through The Collector Baloda Bazar, Chhattisgarh

**... Respondent(s)**

|                          |   |                                     |
|--------------------------|---|-------------------------------------|
| For Appellant(s)         | : | Mr. Aniruddha Shrivastava, Advocate |
| For Respondent/<br>State | : | Mr. Anand Gupta, Dy. G.A.           |

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| For Respondents No.<br>1 to 7 | : | Ms. Meera Ansari, Advocate |
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**Hon'ble Shri Bibhu Datta Guru, Judge**  
**Judgment on Board**

**21.01.2026**

1. Heard on I.A. No. 1 of 2014, application for condonation of delay in filing this second appeal under Section 100 of the CPC. The present application is filed by the appellant/plaintiff for condonation of delay of almost 6 years in filing the appeal.
2. The plaintiff/ appellant has preferred this second appeal under Section 100 of the Code of Civil Procedure, 1908 (for brevity CPC) against the judgment & decree dated 16.06.2008 passed by the Learned 2<sup>nd</sup> Additional District Judge, Baloda Bazar in Civil Appeal No. 27A/2006 (Lallu Ram Vs. Tukaram & Ors.) affirming the judgment and decree dated 10.05.2006 passed by the Trial Court in Civil Suit No. 288A/01 (Lallu Ram Vs. Tukaram & Ors.) whereby the learned trial Judge has partly allowed the suit of the plaintiff/ appellant herein filed for declaration of title and permanent injunction. For the sake of convenience, the parties would be referred as per their status before the learned trial Court.
3. The pleadings in suit of the plaintiff, in brief, are that the disputed pond is situated in village Lahod and is duly recorded in the name of the plaintiff, namely Lalluram, in the revenue records. The plaintiff inherited the said pond after the death of his grandfather,

Bholaram. Ever since the demise of his grandfather in the year 1968, the appellant has been in continuous and peaceful possession of the disputed pond and has been using the same for pisciculture. His name is also recorded in the loan register in respect of the said pond. It is further contended that the respondents/defendants No. 1, 2 and 3 never interfered with the plaintiff's possession until the year 1997, when they, on false and frivolous grounds, attempted to interfere with and dispossess the plaintiff from the disputed pond. Consequently, the plaintiff was constrained to file the plaint before the trial Court seeking declaration of his title over the disputed pond and a decree of permanent injunction restraining the respondents/defendants No. 1, 2 and 3 from interfering with his lawful possession thereof.

4. The defendants/respondents, in their written statement, have primarily contended that the family tree submitted by the plaintiff in the plaint is incorrect and misleading. They have placed on record the correct family tree, showing the respondents as successors of one of the co-sharers. It is their case that the disputed pond was jointly recorded in the names of three co-sharers in the settlement records of the year 1927-28, prior to the abolition of the land revenue system, and that subsequently each of the co-sharers held a defined share therein. The respondents claim to be lawful successors of one such co-sharer and assert joint ownership and possession over the disputed pond. It is further pleaded that the

disputed pond has never been partitioned among the co-sharers. According to the respondents, the appellant/plaintiff was permitted to carry out fish farming in the disputed pond only with the consent of the co-sharers, and the profits derived therefrom were shared amongst them. Earlier, Bhonaram was managing and maintaining the disputed pond on behalf of all the co-sharers, and the appellant also carried on fish farming therein with their consent. The respondents have further alleged that the documents relied upon by the appellant to establish exclusive possession and fish farming are fabricated. It is also alleged that the appellant, by practicing fraud and deceit, managed to get his name recorded in the revenue records without the knowledge or consent of the other co-sharers. It is thus contended that the disputed pond is jointly owned by the appellant, the respondents, and other co-sharers, who have not been impleaded as parties to the suit, rendering the suit bad for non-joinder of necessary parties.

5. On the pleadings of the parties, the learned trial Judge framed as many as 4 issues and given opportunity to the parties to adduce evidence, both oral and documentary and after a full fledged trial rendered a decision by partly allowing the suit on the ground that the plaintiff failed to prove with any credible evidence that the disputed pond is his sole property and it is established that the disputed pond is the jointly owned, undivided property of the plaintiff and the defendants. Further, it was held that the other co-owners have been made parties to the case by the plaintiff, nor has

the defendant included them as parties in his written statement. Therefore, there is a defect in the joinder of parties by both the plaintiff and the defendant. Against the judgment and decree passed by the trial Court the plaintiff/ appellant has preferred first appeal before the First Appellate Court which has been dismissed vide judgment and decree impugned herein affirming the findings of the trial Court. Aggrieved by the judgment and decree passed by the First Appellate Court, the present Second Appeal has been filed.

6. I have heard learned counsel for the parties, perused the material available on record.

***on delay :***

7. Learned counsel for the appellant submits that the delay in filing the present appeal is neither intentional nor deliberate but has occurred due to *bona fide* and unavoidable circumstances beyond the control of the appellant. It is submitted that immediately after obtaining the certified copy of the impugned judgment and decree on 30.06.2008, the appellant handed over the entire file along with necessary expenses and fees to the counsel, on 02.07.2008, and also duly executed the vakalatnama in his favour for filing the second appeal. The appellant, being an illiterate and innocent villager, was continuously approaching the said counsel to enquire about the progress of the case and was consistently informed that the appeal had already been filed and was yet to be listed. It was only on 10.08.2014, when the appellant decided to engage another

counsel and sought return of the file, that it came to light that the appeal had never been filed. Immediately thereafter, without any further delay, the appellant has filed the present appeal along with the application for condonation of delay. The delay has thus occurred solely due to the inadvertent lapse and misrepresentation on the part of the earlier counsel, and not due to any negligence or lack of *bona fides* on the part of the appellant. In these circumstances, and in the interest of substantial justice, the appellant deserves liberal consideration and the delay deserves to be condoned.

8. Learned counsel for the respondent No. 1 to 7 submits that the application for condonation of delay filed by the appellant is based on false, misleading and concocted allegations and is liable to be dismissed outright. It is submitted that the appellant never personally engaged the Senior counsel, for filing the second appeal, nor was any fee or expense ever accepted by him for the said purpose. In fact, the certified copy of the impugned judgment and decree was examined by the Senior counsel, who clearly opined that the proposed appeal had no merit and was unlikely to succeed, and accordingly, he neither agreed to file the appeal nor accepted any vakalatnama, fee or expenses. The assertion of the appellant that he was informed that the appeal had been filed is false on the face of the record, as neither the Senior counsel nor his juniors ever represented that the appeal had been instituted. The vakalatnama and brief cover relied upon by the appellant do

not bear the names of the parties, details of the appeal or any endorsement indicating filing before the Court, clearly demonstrating that the same were never executed or retained in the office of the Senior counsel and were procured by a third person, namely Shri Khaleel Ahmed, without authority. It is further submitted that the appellant admittedly approached the Senior counsel after about six years, at which time the file was returned with a clear statement that filing an appeal would not be fruitful, and prior thereto the appellant had neither met the Senior Advocate nor his juniors. The allegation that the Senior Advocate misled the appellant or withheld information is thus wholly unfounded and defamatory, particularly considering his long-standing practice of 57 years at the Bar and adherence to professional ethics. The appellant has failed to show any sufficient cause for the inordinate delay, and the application is a clear abuse of process of law, filed only to overcome limitation. Hence, the application for condonation of delay deserves to be rejected.

9. Having heard learned counsel for the parties and upon perusal of the record, this Court finds that the appellant has failed to establish any sufficient cause for condonation of the inordinate delay in filing the present appeal. The explanation furnished by the appellant rests solely on allegations of lapse and misrepresentation on the part of the earlier counsel, which are not supported by any cogent or reliable material. On the contrary, the respondents have specifically denied such allegations and have demonstrated that

the Senior Advocate neither accepted any vakalatnama nor any fees or expenses for filing the appeal, having clearly opined that the proposed appeal lacked merit. The vakalatnama and brief cover relied upon by the appellant do not disclose the names of the parties, particulars of the appeal, or any endorsement of filing before the Court, which clearly belies the appellant's claim that the appeal had been instituted. The conduct of the appellant in allegedly not approaching the counsel for about six years further renders his explanation improbable and unacceptable. In these circumstances, the appellant has failed to show *bona fide* diligence or sufficient cause as required under law, and the explanation offered appears to be an afterthought intended only to circumvent the bar of limitation.

10. True it is that sufficient cause enumerated under Section 5 of the Limitation Act has to be construed liberally, but some cause much less sufficient cause has to be shown for condoning the delay particularly, when the delay is of more than two years. No such sufficient cause has been shown in the application for condonation of delay of almost 6 years in filing the second appeal.
11. In the absence of any sufficient cause, the application under Section 5 of the Limitation Act cannot be entertained as a matter of routine, particularly, when the delay in filing of the instant appeal is for a period of 6 years.
12. Hon'ble Supreme Court in the case of **Basawaraj and others. The Spl. Land Acquisition Officer, reported in 2013 (14) SCC**

**81**, has, in very categorical terms, after considering a series of judgements of Supreme Court on Section 5 of the Limitation Act, the Supreme Court held that where a case has been presented in the Court beyond limitation, the applicant has to explain the Court as to what was the "sufficient cause which means an adequate and enough reason which prevented him to approach the Court within limitation. In case there was no sufficient cause to prevent a litigant to approach the Court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature. It further held that 'sufficient cause' means that the party should not have acted in a negligent manner or there was a want of bona fide on its part in view of the facts and circumstances of a case or it cannot be alleged that the party has "not acted diligently" or "remained inactive". The applicant must satisfy the Court that he was prevented by any "sufficient cause" from prosecuting his case, and unless a satisfactory explanation is furnished, the Court should not allow the application of condonation of delay. Para's 12 & 15 of the said decision read as under :-

12. It is a settled legal position that law of limitation may harshly affect a particular party but it has to be shown period of limitation on equitable grounds. "A result prescribes. The Court has no power to extend the Court has no power to ignore the

provision to relieve flowing from a statutory provision is never an evil. A what is considers a distress resulting from it operation." The statutory provision may cause hardship or inconvenience to a particular party but the Court has no choice but to enforce it giving full effect to the same. The legal maxim "dura lex sed lex" which means "the law is hard but it is the law", stands attracted in such a situation. It has consistently been held that, "inconvenience is not" a decisive factor to be considered while interpreting a statute.

15. ....In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be justified ground to condone the delay....."

13. The Supreme Court in the matter of **Pathpati Subba Reddy (Died) by LRs. And Ors Vs. Special Deputy Collector {2024 SCC OnLine SC 513}** had held as under:-

26. On a harmonious consideration of the provisions of the law, as aforesaid, and the law laid down by this Court, it is evident that:

(i) Law of limitation is based upon public policy that there should be an end to litigation by forfeiting the

right to remedy rather than the right itself;

(ii) A right or the remedy that has not been exercised or availed of for a long time must come to an end or cease to exist after a fixed period of time;

(iii) The provisions of the Limitation Act have to be construed differently, such as Section 3 has to be construed in a strict sense whereas Section 5 has to be construed liberally;

(iv) In order to advance substantial justice, though liberal approach, justice-oriented approach or cause of substantial justice may be kept in mind but the same cannot be used to defeat the substantial law of limitation contained in Section 3 of the Limitation Act;

(v) Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power is discretionary in nature and may not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence;

(vi) Merely some persons obtained relief in similar matter, it does not mean that others are also

entitled to the same benefit if the court is not satisfied with the cause shown for the delay in filing the appeal;

(vi) Merits of the case are not required to be considered in condoning the delay; and

(viii) Delay condonation application has to be decided on the parameters laid down for condoning the delay and condoning the delay for the reason that the conditions have been imposed, tantamounts to disregarding the statutory provision.

14. Accordingly, I.A. No. 1, for condonation of delay in filing the appeal is rejected

***on merits :***

15. Learned counsel for the appellant submits that the appellant acquired title over the disputed pond by way of inheritance after the death of his grandfather, Bholaram. It is further contended that during the lifetime of Bholaram, the ancestral agricultural land was partitioned between Bholaram and his co-sharers, in which partition the entire disputed pond fell to the exclusive share of Bholaram. After the death of Bholaram, the appellant succeeded to the said pond and has been in continuous, peaceful and uninterrupted possession thereof. Learned counsel further submits that, in the alternative, the appellant has also perfected his title by adverse

possession, as he has been openly, continuously and hostilely possessing and enjoying the pond for a long period to the knowledge of all concerned. It is submitted that the appellant has been carrying out fish cultivation in the disputed pond and earning his livelihood therefrom, which clearly establishes long-standing possession and enjoyment. Learned counsel contends that both the learned Trial Court as well as the learned First Appellate Court failed to properly appreciate the oral and documentary evidence on record and committed a gross error of law and fact in dismissing the appellant's claim.

16. From the material available on record, it is evident that, upon due appreciation of the oral as well as documentary evidence adduced by the parties, the Learned Trial Court recorded a clear finding that the plaintiff failed to establish his ownership over the disputed pond by any credible or cogent evidence. The Court specifically held that no document of partition or will was produced to substantiate the claim that the plaintiff had acquired exclusive title over the disputed property. It was further observed that the disputed pond was alleged to be undivided property and, in the absence of proof of lawful partition, the plaintiff's claim could not be sustained. Additionally, the Learned Trial Court found that all co-owners had not been impleaded as parties to the suit, rendering the suit bad for non-joinder of necessary parties. These findings of fact and law were duly considered and affirmed by the Learned First Appellate

Court, which found no infirmity or illegality in the conclusions drawn by the Trial Court.

17. Even otherwise, the scope of interference in a Second Appeal under Section 100 of the Code of Civil Procedure is extremely limited. Interference is permissible only when the appeal involves a substantial question of law. Concurrent findings of fact recorded by both the Courts cannot be interfered with unless such findings are shown to be perverse, based on no evidence, or contrary to settled principles of law.
18. In the present case, both the Trial Court and the First Appellate Court have recorded concurrent findings, on the basis of evidence available on record. The appellants have failed to demonstrate any perversity, illegality, or misapplication of law in the concurrent findings so recorded.
19. The questions sought to be raised in the present Second Appeal essentially relate to re-appreciation of evidence and challenge to concurrent findings of fact. Such questions do not give rise to any substantial question of law within the meaning of Section 100 of the Code of Civil Procedure.
20. Be that as it may, the argument advanced by learned counsel for the appellants and the proposed question of law cannot be regarded as satisfying the test of being 'substantial question of law' within the meaning of Section 100 of CPC. These questions, in my view, are essentially question of facts. The appellants failed to raise any substantial question of law which is required under Section 100

of the CPC. In any event, the Second Appeal did not involve any substantial question of law as contemplated under Section 100 of the CPC, no case is made out by the appellants herein. The judgments impugned passed by the learned trial Court as well as by the learned First appellate Court are just and proper and there is no illegality and infirmity at all.

21. Accordingly, the present appeal is liable to be and is hereby **dismissed** at the motion stage itself on the ground of delay and laches as also on merits.

**SD/-**  
**(Bibhu Datta Guru)**  
**Judge**

Jyoti