

GAHC030005992023



**THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)**

Case No. : I.A.(Civil)/137/2023

Sh. B. Sanghnuna (L), R/b his legal representative and wife Smt. F. Lawmzuali
R/o Tuikhuahtlang, Aizawl, Mizoram

VERSUS

The Union of India and 3 Ors.
Represented by the Chief Engineer, Project Pushpak, Zemabawk, Aizawl, C/o 99
APO 2:The Chief Engineer

3:The Secretary to the Govt. of Mizoram

4:The Deputy Commissioner-cum-District Collecto

Advocate for the Petitioner : Mr A.R. Malhotra

Advocate for the Respondent : Ms Zairemsangpuii, CGC for R1&R2

Linked Case : RFA/43/2023

Sh. B. Sanghnuna (L) R/b his legal representative and wife Smt. F. Lawmzuali
R/o Tuikhuahtlang
Aizawl
Mizoram

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2:The Chief Engineer
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3:The Secretary to the Govt. of Mizoram
Revenue Department
Aizawl

4:The Deputy Commissioner-cum-District Collector
Aizawl District
Aizawl

Advocate for the Petitioner : Mr A.R. Malhotra
Advocate for the Respondent : Ms Zairemsangpuii
CGC for R1&R2

ORDER

BEFORE

HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

03.09.2024

Heard Mr. A.R. Malhotra, learned counsel for the applicant. Also heard Ms. Zairemsangpuii, learned CGC for respondent Nos. 1 & 2 and Ms. Caroline K. Lungawipuii, learned Government Advocate for respondent Nos. 3 & 4.

2. This application is for condonation of delay of 1787 days under Section 7 of the Limitation Act, 1963 in filing the accompanying Regular First Appeal against the Judgment & Order dated 18.09.2018 passed by the Senior Civil Judge, Aizawl Judicial District in Civil Suit No. 30/2008.

3. The applicant is the wife of the original plaintiff who has filed the Civil Suit

No. 30/2008, seeking declaration of right and title over the suit land covered by LSC No. AZL 2480/1987 alongwith all consequential benefits, which was dismissed by the Senior Civil Judge, Aizawl Judicial District, Aizawl vide Judgment & Order dated 18.09.2018.

4. Aggrieved by the aforesaid judgment and order, the accompanying Regular First Appeal has been preferred. However, a delay of 1787 days occurred, for which the present Interlocutory Application for condonation of the said delay is being filed.

5. Mr. A.R. Malhotra, learned counsel for the applicant submits that the said delay occurred due to reasons beyond the control of the applicant and warrants to be condoned by this Court.

6. He further submits that the original plaintiff was battling through various illness/ailments right from 2012 including having brain stroke and was also hospitalized on various occasions before various hospitals both at Aizawl and outside the State since 2012 till he ultimately died, i.e., on 2021.

7. He further submits that after the original plaintiff died on 12.04.2021, the present applicant who is the wife could not file the present appeal on time as she herself was battling with cancer and also had to be hospitalized on several occasions.

8. Ms. Zairemsangpuii, learned CGC on the other hand strongly opposes the prayer for condonation of delay. She submits that though a lot of Medical Certificates have been annexed with the Interlocutory Application for condonation, however, there is no explanation as regards the delay of 1787 days for filing the accompanying appeal.

9. She further submits that though the applicant and her husband were

suffering from several ailments, that does not estopped them from engaging a counsel and take recourse to necessary remedies available in law. She accordingly submits that the explanation tendered by the applicant in the Interlocutory Application is not bonafide and sufficient and therefore, warrants no condonation from this Court.

10. In support of her submissions, she relies upon the decisions of the Apex Court in the case of *The State of Assam & 2 Ors. Vs. Smt. Gita Rani Kalita, 2017 (2) GLT 1190* and the decision of this Court in *The State of Madhya Pradesh Vs. Bherulal, (2020) 10 SCC 654*.

11. Ms. Caroline K. Lungawipuii, learned Government Advocate fairly submits that she has not received instructions to oppose the present Interlocutory Application.

12. I have given my prudent consideration to the arguments made by both the learned counsels and have perused the averments made in the Interlocutory Application in support of the prayer for condonation of delay as well as the objection filed by the respondent Nos. 1 & 2 opposing the prayer for delay.

13. Paragraph No. 2 (a) to (x) of the I.A. is reproduced hereunder for ready reference:-

“a) The Ld. trial Court had passed the Judgment & Order dt.18/9/2018 dismissing the suit filed by the Applicant.

b) The Applicant had initially suffered a stroke in the month of May, 2012 after which he was taken to Kolkatta for medical treatment where he was admitted to the MEDICA Superspeciality Hospital on 17/5/2012 and discharged on 14/7/2012. According to the discharge certificate issued by MEDICA Superspeciality Hospital, the Applicant had suffered Bilateral spontaneous intracerebral haemorrhage; amyloid angiopathy i.e. stroke. A copy of the Discharge Certificate is at Annexure-1.

c) After returning to Aizawl, the Applicant had continued to take treatment as an out-patient at Bethesda Hospital & Research Centre, Bawngkawn Chhimveng, Aizawl between September, 2012 to July, 2014. During this period, he had a history of multiple mild strokes due to which he was bedridden from 2015 onwards. Copies of the Medical Certificates issued by Bethesda Hospital & Research Centre, Bawngkawn Chhimveng, Aizawl are at Annexure-2 collectively.

d) The Applicant was taken care by his family and from the beginning of April, 2018 he had difficulty in swallowing and shortness of breath due to which he was admitted to Vaivenga Hospital & Research Centre, Dawrpui Veng, Aizawl on 3/4/2018 and was discharged on 4/4/2018. A copy of the Discharge Certificate is at Annexure-3.

e) However, from this time onward the health of the Applicant had continuously deteriorated due to which he was again admitted to Aizawl Hospital & Research Center, Khatla, Aizawl on 18/9/2018 and discharged on 24/9/2018. This means that the Applicant was admitted in the Hospital on the date the Trial Court had passed the impugned Judgment & Order dt.18/9/2018. A copy of the Discharge Certificate is at Annexure 4.

f). Thereafter, the Applicant was again admitted to City Hospital, Mission Veng on 10/3/2019 and discharged on 11/4/2019. A copy of the Discharge Certificate is at Annexure-5.

g) The Applicant was again admitted to City Hospital, Mission Veng on 14/10/2019 and discharged on 25/10/2019. A copy of the Discharge Certificate is at Annexure - 6.

h) After this, the Applicant was taking treatment at home but since his condition did not improve he was again admitted to Ebenezer Medical Center, Chawnpui, Aizawl on 6/11/2019 and was discharged on 11/12/2019. A copy of the Discharge Certificate is at Annexure - 7.

i) The Applicant was again admitted to City Hospital, Mission Veng, Aizawl on 21/2/2020 and discharged on 4/3/2020. A copy of the Discharge Certificate is at Annexure-8.

j) Thereafter the Applicant was admitted to City Hospital, Mission Veng, Aizawl on

8/7/2020 and discharged on 4/8/2020. A copy of the Discharge Certificate is At Annexure-9.

k) The Applicant was again admitted to City Hospital, Mission Veng, Aizawl on 28/10/2020 and discharged on 6/11/2020. A copy of Discharge Certificate is at Annexure-10.

l) The Applicant was again admitted to City Hospital, Mission Veng, Aizawl on 27/11/2020 and discharged on 30/11/2020. A copy of Discharge Certificate is at Annexure-11.

m) The Applicant was again admitted to City Hospital, Mission Veng, Aizawl on 19/12/2020 and discharged on 22/12/2020. A copy of Discharge Certificate is at Annexure-12.

n) The Applicant was again admitted to City Hospital, Mission Veng, Aizawl on 7/1/2021 and discharged on 14/1/2021. A copy of Discharge Certificate is at Annexure-13.

o) The Applicant was again admitted to City Hospital, Mission Veng, Aizawl on 25/1/2021 and discharged on 29/1/2021. A copy of Discharge Certificate is at Annexure-14.

p) The health of the Applicant had deteriorated rapidly and he had passed away on 12/4/2021. A copy of the Death Certificate is at Annexure-15.

q) After the death of the Applicant, his wife as his legal representative had intended to file an appeal against the impugned Judgment & Order dt.18/9/2018 but before she could take any concrete steps, the wife of the Applicant had fallen ill in the month of March, 2021 due to which she was taken to Kolkata for medical treatment. In Kolkata she was admitted to TATA Medical Center, Newtown, Kolkata where it was confirmed that she was suffering from GEJ Cancer (gastric or oesophageal cancer). At this time she was administered 1 cycle of chemotherapy in. Kolkata after which she had come back to Aizawl. At Aizawl, she was administered 3 cycles of chemotherapy at Nazareth Hospital, Chaltlang, Aizawl after which the wife of the Applicant was again taken to Kolkata and admitted in TATA Medical Center, Kolkata on 8/9/2021 where she

was operated on 10/9/2021 and discharged on 25/9/2021. Copies of the Medical Certificates issued by TATA Medical Center are at Annexure - 16 collectively.

r) After coming back to Aizawl, the wife of the Applicant was admitted in Nazareth Hospital, Chaltlang, Aizawl on 4 occasions between October 2021 to December 2021 where she was administered 4 cycles of chemotherapy. Copies of the Discharge Certificates issued by Nazareth Hospital are at Annexure 17 collectively.

s) Thereafter, after a gap of 3 months, the wife of the Applicant was again taken to Tata medical Center, Kolkata for review check-up in the month of March, 2022. On this occasion she was again advised to get a review check-up after 6 months. Copies of the Medical Certificate issued by TATA Medical Center issued in March, 2022 are at Annexure-18 collectively.

t) Thereafter after a gap of 6 months, the wife of the Applicant was again taken to TATA Medical Center, Kolkata for review check-up in the month of September, 2022 and on this occasion she was again advised to get a review check-up after 4 months. However due to some complications, the wife of the Applicant was again taken to TATA Medical Center, Kolkata in the month of November, 2022 and on this occasion she was again advised to get a review check-up after 4 months. Copies of the Medical Certificates issued by TATA Medical Center in September, 2022 & November, 2022 are at Annexure-19 collectively.

u) After this, the wife of the Applicant was again taken to TATA Medical Center, Kolkata for review medical check-up in the month of April, 2023 and after conducting a number of tests, she was advised to get a review check-up on 24/10/2023. A copy of the Medical Certificate issued by TATA Medical Center in April, 2023 is at Annexure-20.

v) The wife of the Applicant was again taken to TATA Medical Center, Kolkata for medical check-up on 25/10/2023-26/10/2023 and after conducting a number of tests, she was advised to get a review check-up on 26/4/2024. A copy of the Medical Certificate issued by TATA Medical Center on 26/10/2023 is at Annexure-21.

w) After returning from Kolkata on 27/10/2023, the wife of the Applicant had consulted her present Lawyer with regard to filing an appeal against the impugned Judgment & Order dt.18/9/2018. The Lawyer for the wife of the Applicant had taken

about 4 days to study the case.

x) Thereafter, the wife of the Applicant had again consulted her Lawyer on 1/11/2023 and her Lawyer had taken 7 days to prepare and draft the connected Appeal”.

14. Para 6 to 14 of the objection filed by respondent No. 1 & 2 on 23.07.2024 is reproduced hereunder for ready reference:-

“6. That the statement made in Para No. 2 (b) of the Interlocutory Application is strongly denied and objected. However, the answering respondents/defendants stated that the applicant/appellant has to proof the genuiness of his discharged certificate which does not bear date of issuance by the Doctor who discharged the applicant/appellant. Meanwhile, the applicant/appellant was admitted to the hospital on 17.05.2012 and discharged on 14.07.2012 as per his submission. However, the impugned Judgment & Order dated 18.09.2018 has been passed by the Court on 18.09.2018 which shows that the discharged certificate of the applicant/appellant could not be related to delay filing appeal by the applicant/appellant since the applicant/appellant has been discharged from the pendency of the case in the court of Senior Civil Judge, Aizawl District, Mizoram. Therefore, the instant Interlocutory Application is liable to be dismissed.

7. That the statement made in Para No. 2 (c) of the Interlocutory Application is denied. However, the answering respondents/defendants stated that the medical certificate annexed in the Annexure -II of the present I.A is the patient medical report of Shri Sanghnuna where as the present applicant/appellant is Shri B. Sanghnuna. In the meantime, the medical certificates of the applicant/appellant at Annexure-II are not issued properly and there is no any issuing authority thereof. The date of registration of medical certificate of the appellant/applicant at page 14 (Annexure-II) is 21.09.2012, at page 15 is 22.06.2013, page 16 is 01.10.2013 and page 17 is 31.07.2014 which shows that the medical certificates certificate of the applicant/appellant could not be related to delay filing appeal by the applicant/appellant since the applicant/appellant has been discharged from the

pendency of the case in the court of Senior Civil Judge, Aizawl District, Mizoram. Therefore, the instant Interlocutory Application is liable to be dismissed.

8. That the statement made in Para No. 2 (d) of the Interlocutory Application is denied. However, the answering respondents/defendants stated the stated the applicant/appellant is put to Strick proof of the genuiness of his medical certificates enclosed at Annexure-III of the application. The answering respondents/defendants stated that the applicant/appellant was admitted to Vaivenga Hospital and Research Centre, Dawrpui Veng, Aizawl on 03.04.2014 and was discharged on 04.04.2018. However, the applicant/appellant was discharged on 04.04.2018 prior to the impugned judgement & order has been passed on 18.09.2018 which shows that his grounds for delay filing appeal could not be connected to his medical treatment. Therefore, the instant Interlocutory Application is liable to be dismissed.

9. That the statement made in Para No. 2 (e) of the Interlocutory Application is denied. However, the answering respondents/defendants stated that the applicant/appellant is put to Strick proof of the genuiness of his medical certificates enclosed at Annexure-IV of the application whereas there is no requirement of personal appearance of the applicant/appellant before the court and the grounds for filing appeal should be decided by his counsel, as such, delay filing appeal against the impugned judgment and order by the applicant/appellant does not arise due to his hospitalization at the time of Judgment & Order has been passed by the Court. Therefore, the instant Interlocutory Application is liable to be dismissed.

10. That the statement made in Para No. 2 (f to o) of the Interlocutory Application are denied. However, the answering respondents/defendants stated that the applicant/appellant is put to Strick proof of the genuiness of his medical certificates enclosed at Annexure-V, VI, VII, VIII, IX, X, XI, XII, XIII & XIV of the application. The answering respondents/ defendant stated that whether the applicant/ appellant has been under gone medical treatment during 10.09.2019 to 21.09.2021 or not, he has sufficient time enough to file appeal against the impugment judgment & order dated 18.09.2018 passed in Civil Suit No. 30 of 2008 by Senior Civil Judge, Aizawl District, Aizawl if the applicant/appellant was aggrieved with the said Judgement & Order dated 18.09.2018. Drafting for memorandum of appeal should not be done by the present applicant/appellant himself and the same should be done by his engaged counsel, the requirement from the side of the applicant/appellant is putting his signature alone. As such, the delay for filing RFA was caused due to purely negligence from the side of the

present applicant/appellant only. Therefore, there is no sufficient grounds enough for condoning 1787 days delay for filing RFA. Therefore, the instant interlocutory application is liable to be dismissed.

11. That the statement made in Para No. 2 (p) of the Interlocutory Application are denied. However, the answering respondents/defendants stated that at the time of the present applicant/appellant had passed away on 12.04.2021, the time for filing appeal against the impugned judgement & order dated 18.09.2018 has been already been lapsed, 2 years and 7 months has been gone at the time of the applicant/appellant was died. Therefore, there is no reasonable grounds for condoning delay for filing RFA. Hence the present Interlocutory application is liable to be dismissed.

12. That the statement made in Para No. 2 (r to x) of the Interlocutory Application are denied. However, the answering respondents/defendants stated that the alleged legal representative of Shri B. Sanghnuna who is his wife Smt F. Lawmzuali does not enclosed Heirship Certificate relating to the land certificate in disputed in the present case. As such, the Smt F. Lawmzuali could not be treated as legal representative of Shri B. Sanghnuna for filing the present IA alongwith its RFA.

The answering respondent/defendants stated that the said Smt F. Lawmzuali is put to Strick proof of the genuiness of her medical certificate enclosed as Annexure-XVI to XXI. As to whether Smt F. Lawmzuali has been undergone medical check-up from March, 2021 to 27.10.2023 or not, the same could not be treated as reasonable grounds for delay for filing the present IA alongwith its RFA. If the applicant/appellant was aggrieved with the said Judgement & Order dated 18.09.2018, she has sufficient time enough for filing appeal since drafting for memorandum of appeal should not be done by the present applicant/appellant herself and the same should be done by her engaged counsel, the requirement from the side of the applicant/appellant is putting her signature alone. As such, the delay for filing RFA was caused due to purely negligence from the side of the present applicant/appellant only.

Therefore, there is no sufficient grounds enough for condoning 1787 days delay for filing RFA. Hence the present Interlocutory application is liable to be dismissed.

13. That the statement made in Para Nos. 3 to 5 of the Interlocutory Application are strongly denied and objected. However, the answering respondents/defendants stated that the balance of convenience in the present case in favour of the answering respondents/defendants, since the impugned judgment & order dated 18.09.2018 passed in C.S No. 30 of 2008 has been disposed by the Senior Civil Judge, Aizawl District, Aizawl due to the said C.S. No. 30 of 2008 has been barred by law of limitation. In the meantime, the land pass of the applicant/appellant had already been declared as illegal in the year 1990, as such, there could be no irreparable injury or lost or lost upon the present applicant/appellant due to dismissal of the present IA. Therefore, the present interlocutory application is liable to be dismissed outright.

14. That the statement made in Para No. 6 of the Interlocutory Application is strongly denied and objected. However, the answering respondents/defendants stated that 1787 days delay for filing the present IA and the connected RFA could be occurred due to willful negligence on the part of the applicant/appellant. Even though, the applicant/appellant produced a lot of medical certificates to explain the reason why 1787 days delay for filing the present IA along with its connected RFA, however, there is no reasonable grounds for condoning such much days delayed.

Due to the reason what have been stated in the forgoing paragraphs the instant interlocutory application is liable to be dismissed."

15. Reading of the aforesaid grounds averred in the I.A indicates that the original plaintiff/husband of the applicant had a stroke in the year 2012, whereafter he has been admitted in the MEDICA Superspecialty Hospital at Kolkata on 17.05.2012 and discharged on 14.07.2012.

16. It further appears that after he had returned to Aizawl, he was continuously taking treatment as an out-patient at Bethesda Hospital & Research Centre, Bawngkawn Chhimveng from the period September, 2012 to July, 2014 and it appears from the Medical Certificates enclosed as Annexure-2 collectively that during this period, he had a history of multiple mild stroke due to which he was bedridden on 2015 onwards.

17. It further appears that he was bedridden till he ultimately died on

12.04.2021. It further appears that even during this period while he was bedridden, he had to be hospitalized on several occasions and discharged Medical Certificates of which have been enclosed to the Interlocutory Application as Annexures - 3 to 14. It further appears that after the death of the plaintiff, his wife, though intended to file an appeal against the Judgment & Order dated 18.09.2018 as his legal representative but unfortunately, she has been fallen ill due to cancer and had to be ungoing treatment herself at Kolkata, certificates of which are also enclosed as Annexure-16 series, the appeal could not be filed on time. It further appears that after the applicant came back to Aizawl, she had to be hospitalized almost on four occasions from the period October, 2021 to December, 2021 for Chemotherapy.

18. It appears that relevant Medical Certificates in support of the aforesaid is also enclosed to the Interlocutory Application as Annexure-17 series. It further appears that the applicant was also taken to Tata Medical Centre at Kolkata.

19. Thus, from the above, it is apparent that due to the medical reasons, both of the plaintiff and the applicant, i.e., the legal representative, the appeal could not have been filed on time.

20. The argument of Ms. Zairemsangpuii, learned learned CGC to the effect that the applicant could have engaged a lawyer for doing the needful is not relevant in the facts of the instant case, inasmuch as, it is apparent that the applicant has been battling over cancer from the period 2021 till date and for the period prior to that, she was busy taking care of her husband, the plaintiff who had after a brain stroke was bedridden till his death. It appears that the applicant was going through extreme hardship and mental agony. It is not unusual for the applicant in such a situation not to take positive steps in pursuing the appeal.

21. Pertinent that the decision of the Apex Court in the case of *State of Madhya Pradesh (supra)*, relied by Ms. Zairemsangpuii, learned CGC is in the context of Government bodies seeking condonation by showing the usual ground of unavailability of the documents. The aforesaid decision has no relevance in the context of the present case. Paragraph Nos. 3 & 4 of the aforesaid decision is reproduced hereunder for ready reference:-

3. No doubt, some leeway is given for the Government inefficiencies but the sad part is that the authorities keep on relying on judicial pronouncements for a period of time when technology had not advanced and a greater leeway was given to the Government (Collector, Land Acquisition, Anantnag & Anr vs. Mst. Katiji & Ors. (1987) 2 SCC 107). This position is more than elucidated by the judgment of this Court in Office of the Chief Post Master General & Ors. v. Living Media India Ltd. & Anr. (2012) 3 SCC 563 where the Court observed as under:

“27. It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us.

28. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bonafide, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody including the Government.

29. In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bonafide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to

considerable degree of procedural red tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay." Eight years hence the judgment is still unheeded!

4. A reading of the aforesaid application shows that the reason for such an inordinate delay is stated to be only "due to unavailability of the documents and the process of arranging the documents". In paragraph 4 a reference has been made to "bureaucratic process works, it is inadvertent that delay occurs".

22. Similarly, the decision of this Court in the case of *State of Assam (supra)* relied by the learned counsel for the respondents is also in the context of delay occurred due to bureaucratic process, wherein this Court upon finding that the concerned departmental authorities was not diligently dealing the matter, rejected the condonation application. The aforesaid decision is also of no relevance in the context of the present case.

23. As such, the explanation tendered in the present case, appears to be sufficient and bonafide. It is a settled law that when the explanation given for a delay appears to be satisfactorily explained, the Court ought to exercise positive discretion in favour of the applicant. Reference is made to the decision of the Apex Court in the case of *N. Balakrishnan Vs. M. Krishnamurthy, (1998) 7 SCC 123*. Paragraph Nos. 9 to 12 is reproduced hereunder for ready reference:-

“9. 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 a want of acceptable explanation whereas in certain other cases, delay of a very long range can be condoned as the explanation thereof is satisfactory. Once the court accepts the explanation as sufficient, it is the result of positive exercise of discretion and normally the superior court should not disturb such finding, much less in revisional jurisdiction, unless the exercise of discretion was on wholly untenable grounds or arbitrary or perverse. But it is a different matter when the first court refuses to condone the delay. In such cases, the superior court would be free to consider the cause shown for the delay afresh and it is open to such superior court to come to its own finding even untrammelled by the conclusion of the lower court.

10. *The reason for such a different stance is thus:*

The primary function of a court is to adjudicate the dispute between the parties and to advance substantial justice. The time-limit fixed for approaching the court in different situations is not because on the expiry of such time a bad cause would transform into a good cause.

11. *Rules of limitation are not meant to destroy the rights of parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury. The law of limitation fixes a lifespan for such legal remedy for the redress of the legal injury so suffered. Time is precious and wasted time would never revisit. During the efflux of time, newer causes would sprout up necessitating newer persons to seek legal remedy by approaching the courts. So a lifespan must be fixed for each remedy. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. The law of limitation is thus founded on public policy. It is enshrined in the maxim interest reipublicae up sit finis litium (it is for the general welfare that a period be put to litigation).*

Rules of limitation are not meant to destroy the rights of the parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time.

*12. A court knows that refusal to condone delay would result in foreclosing a suitor from putting forth his cause. There is no presumption that delay in approaching the court is always deliberate. This Court has held that the words "sufficient cause" under Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice vide *Shakuntala Devi Jain v. Kuntal Kumari and State of W.B. v. Administrator, Howrah Municipality*".*

24. Reading of the aforesaid, it appears that in every case of delay, there can be some lapse on the part of the litigant concerned, but that alone is not enough to turn down his plea and to shut the door against him. If the explanation does not smack of mala fides or it is not put forth as a part of a dilatory strategy, this Court must show utmost consideration to the suitor.

25. As stated above, I am of the considered view that the explanation put forth by the applicant appears to be sufficient and genuine, and therefore, in the interest of justice, the said delay stands condoned.

26. Interlocutory Application is accordingly allowed.

JUDGE

Comparing Assistant