

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/CIVIL APPLICATION (FOR CONDONATION OF DELAY) NO. 848 of
2026
In F/FIRST APPEAL/30116/2025**

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**DECD. PARVATIBEN SHAMJIBHAI SUVAGIA & ORS.
Versus
THE STATE OF GUJARAT & ORS.**

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Appearance:

MR NITIN M AMIN(126) for the Applicant(s) No. 1,2,3,4,5,6,7,8,9
MR SANJAY M AMIN(130) for the Applicant(s) No. 1,2,3,4,5,6,7,8,9
MR SHAILESH DESAI AGP for the Respondent(s) No. 1,2

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CORAM: HONOURABLE MR. JUSTICE J. C. DOSHI

Date : 24/03/2026

ORDER

1. Heard learned advocate Mr.Nitin Amin for the applicants and learned Assistant Government Pleader Mr.Ashish Desai for the respondent State.

2. This is an application filed under Section 5 of the Limitation Act, 1963 whereby the original claimant seeks relief to condone the delay of 2424 days caused in filing the first appeal against the judgment and award passed in Land Reference Case No.49 of 2003 by learned Principal Senior Civil Judge, Junagadh dated 30.10.2018.

3.1 Learned advocates for the applicant has in paras:2 to 6 of the application has averred the reasons for condonation of delay by referring the judgment of Hon'ble Supreme Court as well as of this Court and ultimately prayed to condone the delay.

3.2 Learned advocate Mr.Amin for the applicant submits that applicant has very good case. He further submits that the Special Land Acquisition Officer as well as Reference Court has not considered the grant of compensation on the value of mango trees standing on the land acquired for the public purpose. In view of the same, he submits that since the applicant has very good case, the delay caused in filing the main appeal be condoned considering the reasons stated in the application.

4.1 As against this, learned Assistant Government Pleader Mr.Desai submits that there is no sufficient reason or cause pleaded by the applicant in the application to condone the delay. In absence of sufficient caused explained, this Court cannot condone the huge delay of 2424 days taking liberal approach. He, therefore, prays to dismiss the present application.

5.1 At the outset, the solitary averment referred to in para:2 explaining the cause of delay reads as under.

“2. The reference court delivered its judgment in 30/10/18. Certified copy of the same was applied on 21/12/18. It was ready for delivery on 24/12/18. The respondents had deposited compensation amount in December 2020. There after the compensation amount was disburse by the reference court in January 2021. The applicant claimant for no fault of them are awarded less amount than what ought to have received. The possession of the land was taken over in 1999 and during this period of 20 years the applicants had incurred huge debt and after repaying their dues with great difficulty they have managed for court fees to prefer this appeal as compensation of their lands are awarded as non-irrigated

land contrary to the evidence on record. There is no fault of the applicants, and the circumstances were / are beyond their control.”

5.2 According to the contents of the application, the compensation amount has been deposited in the year 2020 which was disbursed to the applicant in the year 2021 and thereafter the applicant was managing for funds towards Court Fees which took time for the applicant to file appeal in the year 2025 against the impugned judgment and award.

5.3 Apart from aforesaid reasons, there is no reason averred by the applicant to condone the delay. Apt to note that Hon'ble Supreme Court in the case of *Ajay Dabra vs. Pyare Ram & Ors.* reported in **2023 LiveLaw (SC) 69** declined to consider the ground of not having sufficient funds or sort of paying court fees to be a reason for condonation of delay in filing the appeal.

5.4 In case of *Pathapati Subba Reddy (Died) by Legal Representatives & Ors. vs. Special Deputy Collector (LA)* reported in **(2024) 12 SCC 336**, the Hon'ble Supreme Court, after referring slews of the authorities on the subject matter including the judgment of Master Khatij AIR 1987 (2) SSC 107 relied upon by learned advocate Mr.Amin, the Hon'ble Supreme Court has held as under in paras:25 to 27 which read thus:

25. In [Basawaraj and Anr. vs. Special Land Acquisition Officer](#)⁸, this Court held that the discretion to condone the delay has to be exercised judiciously based upon the facts and circumstances of each case. The expression 'sufficient cause' as occurring in [Section 5](#) of the

Limitation Act cannot be liberally interpreted if negligence, inaction or lack of bona fide is writ large. It was also observed that even though limitation may harshly affect rights of the parties but it has to be applied with all its rigour as prescribed under the statute as the courts have no choice but to apply the law as it stands and they have no power to condone the delay on equitable grounds.

26. It would be beneficial to quote paragraph 12 of the aforesaid decision in Basawaraj case which clinches the issue of the manner in which equilibrium has to be maintained between adopting liberal (2013) 14 SCC 81 14 | 2 2 approach and in implementing the statute as it stands. Paragraph 12 reads as under:

“12. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The Court has no power to extend the period of limitation on equitable grounds. “A result flowing from a statutory provision is never an evil. A Court has no power to ignore that provision to relieve what it considers a distress resulting from its 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.”

27. This Court in the same breath in the same very decision vide paragraph 15 went on to observe as under:

“15. The law on the issue can be summarised to the effect 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 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 a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters [laid down by](#) this Court in regard to the condonation of delay. 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.” (emphasis supplied)

5.5 Even in Para:28 of the said judgment, Hon’ble the Supreme Court in Para:28 held as under:

“28. On a harmonious consideration of the provisions of the law, as aforesaid, and the law [laid down by](#) this Court, it is evident that:

28.1 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;

28.2 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;

28.3 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;

28.4 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;

28.5 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;

28.6 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;

28.7 Merits of the case are not required to be considered in condoning the delay; and

28.8 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.

5.6 It is in light of the aforesaid legal position that this Court is required to decide whether inordinate delay in filing the proposed appeal as has been sufficiently explained and the Court requires to condone the delay or not.

5.7 At this juncture, learned advocate Mr.Amin refers to the judgment in the case of Hon'ble Supreme Court in the case of Suresh Kumar; Laxmi Narain & Anr. vs. State of Haryana & Ors. reported in 2025 INSC 550 and submits that the Court has followed the Hon'ble Supreme Court in case of *Collector, Land Acquisition, Anand Nag & Anr. vs. Mst. Katiji & Ors. (supra)* and condone the inordinate delay taking up liberal

approach. Therefore, this Court may also take liberal approach and condone the delay.

5.8 The facts of the case are distinguishable. Recently Hon'ble Supreme Court in the case of *State of Odisha & Ors. vs. Managing Committee of Namatara Girls High Court* reported in 2026 INSC 148 referring the judgment in the case of *Pathapati Subba Reddy (Died) by Legal Representatives & Ors. vs. Special Deputy Collector (LA) (supra)* has also referred the judgment of *Collector, Land Acquisition, Anand Nag & Anr. vs. Mst. Katiji & Ors. (supra)* and held that condonation of the delay cannot be claimed as a matter of right. It is entirely discretion of the Court whether or not to condone the delay.

5.9 In the present case since the applicant has failed to sufficiently explain the inordinate delay, this Court does not find any reason to condone the huge delay of 2424 days. The solitary reason explained is that applicant was managing fund for Court fees is unacceptable to condone the huge delay. The present application , therefore, fails and it is rejected. Consequentially, registration of First Appeal is dismissed.

MISHRA AMIT V.

(J. C. DOSHI,J)