

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CIVIL APPLICATION (FOR CONDONATION OF DELAY) NO. 5721 of
2025
In F/FIRST APPEAL/34085/2025

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HEIRS OF DECEASED BABABHAI PURABHAI KOLI & ORS.

Versus

JIVRAJBHAI MAHADEVBHAI BAROT

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Appearance:

MR VISHAL C MEHTA(6152) for the Applicant(s) No.

1,1.1,1.1.1,1.1.2,1.1.3,1.2

NOTICE SERVED for the Respondent(s) No. 1

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CORAM: HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

Date : 17/02/2026

ORAL ORDER

- 1) Though served, none appears for respondent No.1.
- 2) This application is filed under Section 5 of the Limitation Act for condonation of delay of 319 days caused in filing the First Appeal.
- 3) It is submitted by the learned advocate for the applicant that the applicant could not file First Appeal in timely fashion because of the reasons mentioned in the application and therefore, has requested to condone the delay caused in filing the First Appeal.
- 4) Considering the submissions made by the learned advocates for the respective parties, the applicant has mentioned sufficient cause for condonation of delay. The primary function of the Court is to adjudicate the dispute between the parties and to advance substantial justice. Rules of limitation are not meant to destroy the rights of parties. The Court is aware of the fact that denial to condone the delay would mean to dismiss the First Appeal at threshold and there is no presumption that the delay caused by the

applicant is deliberate. In view thereof, the words 'sufficient cause' under Section 5 of the Limitation Act should receive a liberal consideration so as to advance substantial justice. Even reason stated appears to be bonafide and genuine. There is no smack of malafide or dilatory tactics on the part of the applicant. Further, it is apposite to refer to the decision of the Hon'ble Apex Court in the case of **N. Balakrishnan v. N. Krishnamurthy** reported in **(1998) 7 SCC 123**.

- 5) In view of the above, more particularly the reasons mentioned in paragraph 2 thereof, delay of 319 days as explained in memo of the application is condoned. The application is accordingly **allowed**.
- 6) The claimants shall not claim interest on the enhanced compensation if any for the delayed period.

SUCHIT

(HASMUKH D. SUTHAR,J)