

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CIVIL APPLICATION (FOR CONDONATION OF DELAY) NO. 5717 of
2025
In F/FIRST APPEAL/35206/2025

FOR APPROVAL AND SIGNATURE:

HONOURABLE MRS. JUSTICE M. K. THAKKER

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Approved for Reporting	Yes	No
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STATE OF GUJARAT & ORS.
 Versus
 LH OF DECD ISMAIL ABDUL KURESHI & ORS.

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Appearance:
 MS.HIMANI SHAH, AGP for the Applicant(s) No. 1,2,3

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CORAM: HONOURABLE MRS. JUSTICE M. K. THAKKER

Date : 16/01/2026

ORAL JUDGMENT

- The present application is filed under section 5 of the Limitation Act challenging the judgment and award dated 30.06.2018 passed by learned Principal Senior Civil Judge, Godhra in Land Acquisition Case No.587 of 2010 whereby, the learned Reference Court has granted additional compensation at the rate of Rs.466.42 per sq.mtr. in addition to 18.40 per sq.mtr. granted by Special Land Acquisition Officer. In filing the appeal,

there was a delay of 2608 days. Therefore, the present application is filed for condonation of delay.

2. Heard learned AGP Ms.Himani Shah for the respondent-State.

2.1. Learned AGP Ms.Himani Shah has reiterated the averments made in the application which is reproduced hereinbelow:

2.It is most respectfully submitted that, the judgment and award in Land Reference Case No. 587 of 2010 was passed on 30.06.2018. Pursuant thereto, the District Government Pleader, Godhra made an application for certified copy of the said judgment and award on 04.10.2018, which was received on 21.05.2019.

3. On receipt of copy of judgment and award dated 21.05.2019, the District Government Pleader tendered his opinion for preferring appeal before this Hon'ble Court on 31.07.2019, which was received by the office of R & B Division, Godhra on 02.08.2019.

4. On 19.08.2019, the Executive Engineer, R & B Department, Godhra addressed a communication to Deputy Executive Engineer, R & B Sub-Division, Godhra to prepare a proposal with complete details as regards to the judgment and award dated 30.06.2018 passed by the Ld. Reference Court, which was duly sent by the Deputy Executive Engineer, Godhra to Executive Engineer, Godhra on 26.11.2019.

5. In the interregnum, on 11.09.2019, the Special Land Acquisition Officer, Godhra, Panchmahal sent a proposal to

Revenue Department, Legal Department, District Collector and R & B Department with regard to preferring appeal against the judgment and award dated 30.06.2018.

6. On 16.12.2019, the Executive Engineer, R & B Division, Godhra addressed a communication with detail proposal to the Superintendent Engineer, R & B Circle, Vadodara along with request for sanction of grant in accordance with the award passed by the Ld. Reference Court.

7. On 07.01.2020, the Superintendent Engineer, Vadodara forwarded the said proposal to the R & B Department, Gandhinagar seeking opinion as regards to preferring appeal against judgment and award dated 30.06.2018 passed by the Ld. Reference Court.

8. On 16.01.2020, the R & B Department, Gandhinagar addressed a communication to Superintendent Engineer, Vadodara to provide for further necessary information and clarification along with proposal as regards to the proceedings undertaken for acquisition of land.

9. On 05.02.2020, the Superintendent Engineer, Vadodara sought the said details from the office of Executive Engineer, Godhra.

10. On 09.11.2020, the Executive Engineer, Godhra addressed a communication to Superintendent Engineer, Vadodara seeking approval for release of grant, in accordance with the judgment and award passed by the Ld. Reference Court. The Executive Engineer, Vadodara also sent a detail proposal in that regard. The said communication was duly forwarded by Superintendent Engineer, Vadodara to R & B Department, Gandhinagar on 18.12.2020.

11. On 11.01.2021, the R & B Department, Gandhinagar sought further clarification and details as regards to proposal sent by the

Executive Engineer, Godhra from the Superintendent Engineer Vadodara. The said communication was duly forwarded by the office of Superintendent Engineer, Vadodara to the Executive Engineer, Godhra on 15.01.2021, who in turn called for complete details from the Deputy Executive Engineer, Godhra vide communication date 29.01.2021 for necessary compliance.

12. It is submitted that in the year 2020, the entire country was engulfed with unfortunate disaster of COVID-19 and therefore the work in all offices was adversely affected. The officers of the State Government were also involved in emergency duties to assist the citizens in navigating the difficult situation. The Executive Engineer, Godhra was also assigned several duties in the affected areas with a view establish temporary check post of police personnel, to make special residence arrangement for the nurses, doctors etc. who were taking care of covid patients and therefore there is some delay on account of unforeseen unfortunate events during this period.

13. On 09.05.2022, the Executive Engineer, Godhra addressed a communication to Superintendent Engineer, Vadodara replying to the query dated 15.01.2021 raised by R & B Department, Gandhinagar.

14. On 12.07.2022, 21.07.2022 and 30.07.2022, the Executive Engineer, communications to Godhra Superintendent addressed Engineer, Vadodara for immediate release of grant in view of attachment warrant issued by the Ld. Court in that regard. The said communications were duly forwarded by Superintendent Engineer, Vadodara to R & B Department, Gandhinagar vide communications dated 29.07.2022 and 01.08.2022.

15. On 06.08.2022, the R & B Department, Gandhinagar addressed a communication to Superintendent Engineer, Vadodara

sanctioning the grant in accordance with judgment and award passed by the Ld. Reference Court, which was duly deposited before the Ld. Reference Court by the office of Executive Engineer, Godhra.

16. On 25.08.2022, the R & B Department, Gandhinagar sought complete details with regard to acquisition process along with clarification for delay in providing the same from the Superintendent Engineer, Vadodara. The said communication was duly forwarded by Superintendent Engineer, Vadodara to the Executive Engineer, Godhra on 05.09.2022 for necessary compliance. The Executive Engineer, Godhra vide communication dated 16.09.2022 sought complete clarification and details in that regard from the Deputy Executive Engineer, R & B Sub-Division, Godhra.

17. It is most respectfully submitted that during this period, the responsible officer of R & B Division, Godhra was due to retire and therefore were required to complete all pending urgent work under their supervision and therefore reply to the query raised by R & B Department got inadvertently missed and delayed.

18. The Executive Engineer vide communications dated 24.05.2024 and 07.06.2024 again sought clarification and details, as sought by R & B Department, Gandhinagar on 25.08.2022, from the office of Deputy Executive Engineer, Godhra, which was duly replied on 16.07.2024. The said reply was duly forwarded to Superintendent Engineer, Vadodara on 22.07.2024 and R & B Department, Gandhinagar on 01.08.2024.

19. On 20.09.2024, the R & B Department sought further clarification and details from Superintendent Engineer, Vadodara with regard the judgment and award passed by the Ld. Reference Court which was received by the office of Executive Engineer,

Godhra on 27.09.2024 and Deputy Executive Engineer on 04.10.2024.

20. On 04.12.2024, the R & B Department, Gandhinagar again sought further clarification and details from Superintendent Engineer, Vadodara with regard the judgment and award passed by the Ld. Reference Court. The Executive Engineer, Godhra vide communication dated 05.12.2024 therefore immediately sought the said details from Deputy Executive Engineer.

21. The Executive Engineer, Godhra vide communication dated 11.12.2024 provided complete details and clarification, as sought by R & B Department, Gandhinagar vide communication dated 20.09.2024 to the Superintendent Engineer, Vadodara, which was duly forwarded to R & B Department, Gandhinagar on 12.12.2024.

22. On 23.01.2025, the Legal Department, Gandhinagar granted sanction to prefer appeal against judgment and award dated 30.06.2018 passed by Ld. Reference Court. The said decision of Legal Department which was duly communicated by the R & B Department, Gandhinagar to Superintendent Engineer, Vadodara on 24.01.2025 and the same was communicated by Executive Engineer, Godhra to Deputy Executive Engineer, Godhra on 07.02.2025.

23. On 27.03.2025, after due verification of complete documents, the Deputy Executive Engineer, Godhra addressed a communication to the office of District Government Pleader requesting for getting the certified copy of required documents from the Ld. Reference Court.

24. On 02.04.2025, the office of District Government Pleader applied for certified copies of the relevant document to the Ld. Reference Court, which was received by the office of District Government Pleader on 04.04.2025 and was duly sent to the

Deputy Executive Engineer, Godhra and received on 22.04.2025.

25. That, thereafter the Appellant had submitted the relevant papers to the office of Ld. Government Pleader, High Court of Gujarat on 11.06.2025 and thereafter necessary meetings were between the Executive Engineer, Godhra and concerned Assistant Government Pleader for getting complete details and thereafter the present F/First Appeal along with Civil Applications for (Condonation of Delay) and Civil Applications (Stay) were drafted. The said drafts were sent for approval of the concerned department and after the approval of the same and after receipt of relevant copies, the present Civil Applications for (Condonation of Delay) along with F/First Appeal and Civil Applications (For Stay) have been filed before this Hon'ble High Court and therefore there is delay of 2608 days has occurred in preferring the present appeal.

2.2. As there were many discrepancies in the explanation which was offered in the application therefore, the additional affidavit was filed in compliance with the order dated 18.12.2025 which is reproduced hereinbelow:

3. I respectfully state that the Judgment and Award in Land Acquisition Reference Case No. 587 of 2010 was passed by the learned Principal Senior Civil Judge, Godhra on 30.06.2018.

4. Pursuant thereto, the office of the District Government Pleader, Godhra, as per the then prevailing administrative practice, had applied for a certified copy on 04.10.2018, which was supplied on 21.05.2019.

5. I respectfully clarify that the said certified copy received on

21.05.2019 was retained in the departmental record and was utilized for administrative reference and legal opinion, at a time when no final decision or sanction had been accorded to prefer an appeal before this Hon'ble Court.

6. I further state that after following due administrative process, the Legal Department, Government of Gujarat, granted sanction to prefer an appeal against the Judgment and Award dated 30.06.2018 on 23.01.2025, which was communicated to the concerned offices on 24.01.2025. offices on 24.01.2025.

7. Upon receipt of the said sanction and while compiling papers for filing the appeal, it was noticed that the earlier certified copy received in 2019 was not suitable and complete for the purpose of filing the appeal, as certain pages/documents were not traceable in the available set.

8. In these circumstances, a fresh application for certified copy was made through the office of the District Government Pleader, Godhra on 02.04.2025, which was prepared and supplied on 04.04.2025.

9. I respectfully submit that the certified copy dated 04.04.2025 was the copy which was actually relied upon and annexed while filing the present First Appeal before this Hon'ble Court.

10. I respectfully state that the reference in the application for condonation of delay to the certified copy applied on 04.10.2018 and received on 21.05.2019 was made bona fide, on the basis of departmental records, and without clearly distinguishing between:

- the earlier certified copy obtained for record and opinion, and*
- the fresh certified copy obtained in April 2025 for filing the appeal.*

11. I humbly submit that the said lack of clarification was entirely inadvertent and unintentional, and not with any intention to mislead or misrepresent facts before this Hon'ble Court.

12. I most respectfully and unconditionally tender my sincere apology to this Hon'ble Court for the inadvertent omission, for any inconvenience caused and respectfully place the correct factual position on record through the present affidavit.

13. I assure this Hon'ble Court that I hold the highest respect for the dignity, authority, and majesty of this Hon'ble Court, and that the lapse was neither deliberate nor intentional.

15. Copies of the following documents are annexed herewith for ready reference:

- *Certified copy of the Judgment and Award received on 21.05.2019*
- *Certified copy of the Judgment and Award received on 04.04.2025*

3. Having considered the arguments as well as the explanation offered in the application it emerges from the record that land which is under acquisition is pertaining to village Popatpura Taluka: Godhra which is acquired for the purpose of construction of Halol Godhra Lunavada Modasa Shamlaji forelane road. The notification under section 4 was issued on 22.10.2008 and award was passed under section 18 of the Land Acquisition Act granting additional compensation as mentioned hereinabove. On referring the explanation offered, it emerges that the certified copy was applied by the office of District Government Pleader on 04.10.2018 and the same was received on 21.05.2019 however, on referring the copy of the award as well as the *parishisht*

it emerges that the certified copy was prepared on 21.01.2019 however, the officer did not bother to take the copy upto 21.05.2019. Thereafter, the opinion was sent to the R&B Department on 31.07.2019 and up to 15.01.2021 the file was moved from one table to another. Thereafter, it is stated that due to Covid pandemic no further actions were taken with regard to file an appeal. Again on 09.05.2022 the file was moved from Executive Engineer, Godhra to Superintendent Engineer, Vadodara which remained between the same department to 12.12.2024. Ultimately, the Legal Department has accorded the sanction to file the appeal on 23.01.2025 against the judgment and award dated 30.06.2018. Surprisingly, again the certified copy was applied for on 02.04.2025 on the ground that earlier certified copy which was received in 2019 is not suitable as per the explanation offered in additional affidavit.

4. On referring the decision rendered by the Apex Court in the case of ***Shivamma (Dead) by Lrs Vs Karnataka Housing Board and Ors in Civil Application No.11794 of 2025***, the Apex Court has held that condoning delay merely because the litigant is a

government entity was done away with, and that delay should be condoned only where there is a reasonable and acceptable explanation for such delay and was accompanied by a bona fide effort. It was further observed that the usual explanation of bureaucratic inefficiency and of procedural red tapism can no longer be accepted. It is also held that Delays as a result of the official business of the government requires its pedantic approach from public justice perspective. Delay should not be condoned mechanically in the absence of “sufficient cause” merely because the party happens to be the State. The Apex Court holds that delay as a result of unavailability of the documents or the process of arranging for them through bureaucratic process works is no longer an acceptable reason or excuse to condone such delay and Section 5 of the Limitation Act does not and cannot vary depending on the identity or status of the party, whether it be the Government, a public body, or a private litigant, so as to apply a different yardstick. The ultimate consideration should be to render even-handed justice to the parties, irrespective of their status. The tendency of State and its instrumentalities to

proceed on the assumption that they may approach the courts at their own convenience and sweet will, disregarding the period of limitation prescribed by statute, as though the Limitation statute does not apply to them.

5. This Court has also referred the case of ***State of Madhya Pradesh v. Ramkumar Choudhary, reported in (2025) 2 GLR 987***, wherein the Apex Court has held that the concept of rendering substantial justice does not mean causing prejudice to the opposite party. The applicant has failed to demonstrate that it was reasonably diligent in prosecuting the matter, and this vital test for condonation of delay having not been satisfied, the delay cannot be condoned as a matter of generosity.

- 5.1. The Apex Court has further observed in the aforesaid decision that the Court is required to examine what prevented the party from filing the appeal between the first day and the last day of limitation. Though a party is entitled to avail the entire period of limitation, once the limitation expires and sufficient cause is pleaded, such cause must disclose that due to an event or

circumstance arising before the expiry of limitation, it was not possible to file the appeal within time. Any event or circumstance arising after the expiry of limitation cannot constitute a sufficient cause. In the present case, the explanation that the delay occurred due to administrative procedure of obtaining not inspire confidence and fails to constitute a sufficient cause in the eyes of law.

6. This Court has referred the decision rendered by the Apex Court in the case of ***Thirunagalingam v. Lingeswaran and Another, reported in (2025) 6 SCR 253*** wherein the Apex Court has held as under:

“31. It is a well-settled law that while considering the plea for condonation of delay, the first and foremost duty of the court is to first ascertain the bona fides of the explanation offered by the party seeking condonation rather than starting with the merits of the main matter. Only when sufficient cause or reasons given for the delay by the litigant and the opposition of the other side is equally balanced or stand on equal footing, the court may consider the merits of the main matter for the purpose of condoning the delay.

32. Further, this Court has repeatedly emphasised in several cases that delay should not be condoned merely as an act of generosity. The pursuit of substantial justice must not come at the cost of causing prejudice to the opposing party. In the

present case, the respondents/defendants have failed to demonstrate reasonable grounds of delay in pursuing the matter, and this crucial requirement for condoning the delay remains unmet.

33. Therefore, in the case at hand, once it has been established that the reasons provided for condoning the delay in the application filed are not sufficient, we are not inclined to go into the merits of the contentions raised by the learned counsel of Respondents regarding Section 14 of the Limitation Act, 1963.”

7. In the above background, approaching the Courts for condonation of delay on such feeble and untenable grounds not only requires rejection of the application but would also impose cost. Resultantly, this application is dismissed with cost of Rs.20,000/- to be paid by the erring officer.
8. The erring officer shall pay the cost of Rs.20,000/- before the Registry of this Court within a period of two weeks from today. The Registry is directed to transfer this amount to the learned Reference Court and learned Reference Court, in turn, shall disburse the same in favour of the claimant, after due verification.

ARCHANA S. PILLAI

(M. K. THAKKER,J)

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: ARCHANA SAJEEVKUMAR PILLAI(HC01899), PRIVATE SECRETARY, at High Court of Gujarat on 21/01/2026 11:02:44