

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CIVIL APPLICATION (FOR CONDONATION OF DELAY) NO. 5958 of
2025****In F/MISC. CIVIL APPLICATION/37394/2025
In R/FIRST APPEAL/2461/2023**

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NANUBHAI KANABHAI AHIR SINCE DECD. THROUGH LHS & ORS.

Versus

SANTOSHBHAI BHIKHABHAI VASAVA & ORS.

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Appearance:

MS DISHA N NANAVATY(2957) for the Applicant(s) No.

1,1.1,1.2,1.3,1.4,1.5

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CORAM:HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

Date : 23/12/2025**ORAL ORDER**

[1.0] This application is filed under Section 5 of the Limitation Act for condonation of delay of 88 days caused in filing the application for restoration of Civil Application (For Bringing Heirs) No.1 of 2025 which came to be dismissed for non-prosecution.

[2.0] Having heard the learned advocate for the applicants and considering the averments made in the application, it appears that the applicants could not file the application for restoration of Civil Application (For Bringing Heirs) No.1 of 2025 in First Appeal No.2461/2023 in timely fashion because of the reasons mentioned in the application and therefore, has requested to condone the delay.

[3.0] Considering the submissions made by the learned advocate for the applicants, the applicants have 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 restoration application 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 applicants. 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**. Even otherwise, considering the fact that MV Act is a benevolent legislation, present application deserves consideration.

[4.0] In view of the above, the delay of 88 days as explained in memo of the application caused in filing the application for restoration of Civil Application (For Bringing Heirs) No.1 of 2025 in First appeal No.2461/2023 is hereby condoned. The application is accordingly allowed.

(HASMUKH D. SUTHAR, J.)

Ajay

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: AJAY CHANDRAN MENON(HC00939), PRINCIPAL PRIVATE SECRETARY, at High Court of Gujarat on 23/12/2025 16:14:17