

IN THE HIGH COURT OF JHARKHAND AT RANCHI

First Appeal No.104 of 2026

Kumari Soni @ Soni Devi Appellant
Versus
Ajit Vishwakarma Respondent

CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE SANJAY PRASAD

For the Appellant(s) : Mr. Akash Kumar, Advocate
: Mr. Ayush Raj, Advocate
: Mr. Ankit Raj, Advocate
For the Respondent : Mr. Subhneet Jha, Advocate

11/Dated:16th April, 2026

I.A. No.10853 of 2024

The instant interlocutory Application has been filed under Section 5 of the Limitation Act, 1963 to condone the delay of 225 days in filing the instant appeal.

2. The learned counsel for the appellant has submitted, placing the grounds taken, that the judgment and decree impugned are *ex parte* in nature, and therefore the appellant had no knowledge of the pending lis. It was only after the passing of the impugned judgment by the learned Family Court that she came to know of the same. Thereafter, being wholly dependent upon her parents, she had to arrange for the necessary funds, which occasioned the delay in filing the present appeal.

3. The respondent-husband has filed reply to the instant interlocutory application and stand *inter-alia* has been taken that after following the due procedure to secure appearance of the appellant, the proceeding has been set *ex-parte*. Therefore, it is not a case where the posting the matter for *ex-parte* hearing can be said to be improper.

4. This Court has heard the learned counsel for the parties and gone through the averments made in the interlocutory application as also the respondent thereto.

5. The sole ground has been taken that the judgment/decreed being *ex-parte* and as such the delay of 225 days has been caused in filing the appeal.

6. This Court has gone through the order sheet as has been appended by the appellant in the memo of appeal in order to substantiate the contention that the basis of posting the matter for *ex-parte* hearing by the learned Family Court is erroneous and fit to be set aside.

7. It is evident from the order sheet that the notice was issued on 30.01.2023. The postal receipt and the tracking report awaiting for service report has been referred in the order dated 28.02.2023 directing the matter to be posted on 23.03.2023 for appearance of the respondent.

8. The court has called upon the report from the Nazarat and waiting for the appearance of the respondent, the matter was deferred to be listed on 15.04.2023 as would be evident from order dated 23.03.2023.

9. It further appears from the order dated 15.04.2023, 25.04.2023 and 08.05.2023 that the matter was deferred from one date to another, awaiting for the service report and also the office was to comply with the previous order.

10. The matter when was heard on 27.06.2023 and court has perused the track report showing item delivery confirmed on 18.02.2023. Notice was also sent through N-Step, but still respondent has not appeared, accordingly, the learned Family Court, in view of the above, has set the proceeding *ex-parte* for the judgment against the respondent.

11. It is thus evident that the learned Family Judge did not take adequate steps to secure the appearance of the respondent, nor was the rightful

approach adopted. Instead, reliance was placed upon the tracking report indicating item delivery at the instance of the petitioner, on the basis of which the absence of the respondent (the appellant herein) was treated as admitted by the learned Family Court.

12. The procedure for service of notice is already available in the Civil Procedure Code and there is also the process for substituted mode of service of notice in a situation where the addressee is not found to be present upon which the earlier notice has been sent. But, in this case, no effort has been taken for affecting the service of notice by taking the substituted mode of service of notice.

13. This Court is, therefore, of the view that the approach adopted by the learned Family Judge in proceeding ex parte against the respondent cannot be regarded as proper. The impugned judgment has been passed on the basis of deemed acceptance of notice, and the respondent/appellant now seeks to assail the said order, giving rise to the present appeal.

14. It needs to refer herein the settled position of law that the period of delay is immaterial in condoning, rather, the sufficient cause is the material one and if the litigant concerned is in a position to substantiate the delay based upon the sufficient cause, then irrespective of the period of delay, it is to be condoned.

15. It also requires to refer herein that what is the meaning of 'sufficient cause'. The consideration of meaning of 'sufficient cause' has been made in *Basawaraj & Anr. Vrs. Spl. Land Acquisition Officer, [(2013) 14 SCC 81]*, wherein, it has been held by the Hon'ble Apex Court at paragraphs 9 to 15 hereunder:-

"9. Sufficient cause is the cause for which the defendant could not be blamed for his absence. The meaning of the word "sufficient" is "adequate" or "enough", inasmuch as may be necessary to answer the purpose intended. Therefore, the word "sufficient" embraces no more than that which provides a platitude, which when the act done suffices to accomplish the purpose intended in the facts and circumstances existing in a case, duly examined from the viewpoint of a reasonable standard of a cautious man. In this context, "sufficient cause" means that the party should not have acted in a negligent manner or there was a want of bona fide on its part in view of the facts and circumstances of a case or it cannot be alleged that the party has "not acted diligently" or "remained inactive". However, the facts and circumstances of each case must afford sufficient ground to enable the court concerned to exercise discretion for the reason that whenever the court exercises discretion, it has to be exercised judiciously. The applicant must satisfy the court that he was prevented by any "sufficient cause" from prosecuting his case, and unless a satisfactory explanation is furnished, the court should not allow the application for condonation of delay. The court has to examine whether the mistake is bona fide or was merely a device to cover an ulterior purpose. (See *Manindra Land and Building Corpn. Ltd. v. Bhutnath Banerjee* [AIR 1964 SC 1336], *Mata Din v. A. Narayanan* [(1969) 2 SCC 770], *Parimal v. Veena* [(2011) 3 SCC 545] and *Maniben Devraj Shah v. Municipal Corpn. of Brihan Mumbai* [(2012) 5 SCC 157].)

10. In *Arjun Singh v. Mohindra Kumar* [AIR 1964 SC 993] this Court explained the difference between a "good cause" and a "sufficient cause" and observed that every "sufficient cause" is a good cause and vice versa. However, if any difference exists it can only be that the requirement of good cause is complied with on a lesser degree of proof than that of "sufficient cause".

11. The expression "sufficient cause" should be given a liberal interpretation to ensure that substantial justice is done, but only so long as negligence, inaction or lack of bona fides cannot be imputed to the party concerned, whether or not sufficient cause has been furnished, can be decided on the facts of a particular case and no straitjacket formula is possible.

(Vide *Madanlal v. Shyamlal* [(2002) 1 SCC 535] and *Ram Nath Sao v. Gobardhan Sao* [(2002) 3 SCC 195] .)

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.

13. The statute of limitation is founded on public policy, its aim being to secure peace in the community, to suppress fraud and perjury, to quicken diligence and to prevent oppression. It seeks to bury all acts of the past which have not been agitated unexplainably and have from lapse of time become stale. According to Halsbury's Laws of England, Vol. 28, p. 266:

"605. Policy of the Limitation Acts.--The courts have expressed at least three differing reasons supporting the existence of statutes of limitations namely, (1) that long dormant claims have more of cruelty than justice in them, (2) that a defendant might have lost the evidence to disprove a stale claim, and (3) that persons with good causes of actions should pursue them with reasonable diligence."

An unlimited limitation would lead to a sense of insecurity and uncertainty, and therefore, limitation prevents disturbance or deprivation of what may have been acquired in equity and justice by long enjoyment or what may have been lost by a party's own inaction, negligence or laches. (See Popat and Kotecha Property v. SBI Staff Assn. [(2005) 7 SCC 510] , Rajender Singh v. Santa Singh [(1973) 2 SCC 705 : AIR 1973 SC 2537] and Pundlik Jalam Patil v. Jalgaon Medium Project [(2008) 17 SCC 448]

14. In P. Ramachandra Rao v. State of Karnataka [(2002) 4 SCC 578] this Court held that judicially engrafting principles of limitation amounts to legislating and would fly in the face of law laid down by the Constitution Bench in Abdul Rehman Antulay v. R.S. Nayak [(1992) 1 SCC 225].

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."

16. Thus, it is evident that the sufficient cause means that the party should not have acted in a negligent manner or there was a want of bona fide on its part in view of the facts and circumstances of a case or it cannot be alleged that the party has "not acted deliberately" or "remained inactive". However, the facts and circumstances of each case must afford sufficient ground to enable the Court concerned to exercise discretion for the reason that whenever the Court exercises discretion, it has to be exercised judiciously. The applicant must satisfy the Court that he was prevented by any "sufficient cause" from prosecuting his case, and unless a satisfactory explanation is furnished, the Court should not allow the application for condonation of delay. The Court has to examine whether the mistake is bona fide or was merely a device to cover the ulterior purpose as has been held in *Manindra Land and Building Corporation Ltd. Vrs. Bhutnath Banerjee & Ors.*, AIR 1964 SC 1336, *Lala Matadin Vrs. A. Narayanan*, (1969) 2 SCC 770, *Parimal Vrs. Veena @ Bharti*, (2011) 3 SCC 545 and *Maniben Devraj Shah Vrs. Municipal Corporation of Brihan Mumbai*, (2012) 5 SCC 157.

17. It has further been held in the aforesaid judgments that the expression 'sufficient cause' should be given a liberal interpretation to ensure that substantial justice is done, but only so long as negligence, inaction or lack of bona fides cannot be imputed to the party concerned, whether or not sufficient cause has been furnished, can be decided on the facts of a

particular case and no straitjacket formula is possible, reference in this regard may be made to the judgment rendered by the Hon'ble Apex Court in ***Ram Nath Sao @ Ram Nath Sahu & Ors. Vrs. Gobardhan Sao & Ors., (2002) 3 SCC 195***, wherein, at paragraph-12, it has been held as hereunder:-

"12. Thus it becomes plain that the expression "sufficient cause" within the meaning of Section 5 of the Act or Order 22 Rule 9 of the Code or any other similar provision should receive a liberal construction so as to advance substantial justice when no negligence or inaction or want of bona fides is imputable to a party. In a particular case whether explanation furnished would constitute "sufficient cause" or not will be dependent upon facts of each case. There cannot be a straitjacket formula for accepting or rejecting explanation furnished for the delay caused in taking steps. But one thing is clear that the courts should not proceed with the tendency of finding fault with the cause shown and reject the petition by a slipshod order in over- jubilation of disposal drive. Acceptance of explanation furnished should be the rule and refusal, an exception, more so when no negligence or inaction or want of bona fides can be imputed to the defaulting party. On the other hand, while considering the matter the courts should not lose sight of the fact that by not taking steps within the time prescribed a valuable right has accrued to the other party which should not be lightly defeated by condoning delay in a routine-like manner. However, by taking a pedantic and hypertechnical view of the matter the explanation furnished should not be rejected when stakes are high and/or arguable points of facts and law are involved in the case, causing enormous loss and irreparable injury to the party against whom the lis terminates, either by default or inaction and defeating valuable right of such a party to have the decision on merit. While considering the matter, courts have to strike a balance between resultant effect of the order it is going to pass upon the parties either way."

18. Since the learned Family Judge did not take adequate steps to secure the appearance of the respondent, and instead placed reliance upon the tracking report indicating item delivery at the instance of the petitioner, the absence of the respondent (the appellant herein) was erroneously treated as admitted. Further, no effort was made to effect service of notice through the substituted mode, which ought to have been resorted to in the circumstances.

19. In view thereof, this Court finds that the appellant has successfully substantiated the delay in filing the present appeal by demonstrating

sufficient cause, as enunciated by the Hon'ble Apex Court in the case of Basawaraj & Anr. Vs. Special Land Acquisition Officer (supra).

20. Thus, in view of the foregoing discussion and the settled proposition of law referred hereinabove, and in order to prevent miscarriage of justice, this Court holds that the delay of 225 days in filing the appeal constitutes sufficient cause and is accordingly condoned.

21. Accordingly, the delay of 225 days in filing the present appeal is hereby condoned.

22. The instant interlocutory application being I.A. No.10853 of 2024 stands disposed of.

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23. Learned counsel for the respondent has submitted that now the husband has already solemnized the second marriage. Therefore, he submits that only question now remains to be adjudicated on the issue of the permanent alimony.

24. Let the affidavit be filed, by the parties individually showing the movable/immovable properties and if the husband is in service, let the pay slip along with the statement of the Account be filed.

25. Similar affidavit is to be filed by the appellant-wife.

26. Call for the Trial Court Record.

27. List this case after two weeks, i.e., on 04.05.2026.

(Sujit Narayan Prasad, J.)

(Sanjay Prasad, J.)

Dated: 16.04.2026
Saket/-