



ORISSA HIGH COURT : CUTTACK

I.A No.1221 of 2025
(Arising out of R.S.A. No.439 of 2025)

In the matter of an application under Section 5 of the Indian
Limitation Act, 1963.

* * *

Judhistir Tipiria

...

Petitioner.

-VERSUS-

Chandra Mohan Patbandha & others

...

Opposite Parties.

Counsel appeared for the parties:

For the Petitioner : Mr. S.K. Patnaik, Advocate.

For the Opp. Parties : Mr. B.S. Panigrahi, Advocate.

P R E S E N T:

HONOURABLE
MR. JUSTICE ANANDA CHANDRA BEHERA

Date of Hearing : 17.04.2026 :: Date of Judgment : 17.04.2026

JUDGMENT

ANANDA CHANDRA BEHERA, J.—

1. This Interlocutory Application under Section 5 of the
Indian Limitation Act, 1963 has been filed by the Petitioner-



Appellant praying for condonation of delay of 119 days in preferring this 2nd appeal vide RSA No.439 of 2025 on the ground of illness of the Petitioner-Appellant.

- 2.** Heard from the learned counsels of both the sides.
- 3.** Learned counsel for the Opposite Parties-Respondents vehemently objected to the contentions of the learned counsel for the Petitioner-Appellant and submitted for dismissal of the I.A stating that, the delay in preferring the 2nd appeal is intentional and deliberate and actually the Petitioner-Appellant was not suffering from any illness.
- 4.** When the Petitioner-Appellant is interested for the final disposal of this 2nd appeal vide RSA No.439 of 2025 on merit after getting an opportunity of hearing in the said appeal through condonation of delay by filing this I.A and when the main object/purpose of the C.P.C. is to enable both the parties to get hearing of the suit/appeal/case on merit instead of disposing of the same on any technical ground, for no other reason, but only in order to avoid the multiplicity of litigations between the parties and when the said propositions of law has already been clarified by the Apex Court in the case between



Sumiti Bai & others vrs. Paras Finance Co. & others (S.C)
decided in Appeal (Civil No.117 of 2001 on dated
04.10.2007 (Para No.8) and when it is very fundamental in law that, when the law of technicalities and the courses of substantial justice are pitted against each other, then, the courses of substantial justice deserves to be preferred and when the delay in preferring the 2nd appeal by the Petitioner-Appellant can be compensated properly on payment of cost to the Opposite Parties-Respondents, then, at this juncture, by applying the above principle of law, I find no justification to disallow the I.A filed by the Petitioner-Appellant.

5. Therefore, the I.A filed by the Petitioner-Appellant under Section 5 of the Indian Limitation Act, 1963 is allowed subject to payment of cost of Rs.2000/- (rupees two thousand) by the Petitioner-Appellant to the Opposite Parties-Respondents through their learned counsel Mr.B.S. Panigrahi within fifteen days hence.

6. The delay of 119 days in preferring the 2nd appeal vide RSA No.439 of 2025 by the Petitioner-Appellant is condoned making it clear that if the aforesaid imposed cost will not be



paid by the Petitioner-Appellant to the learned counsel for the Opposite Parties-Respondents within the above stipulated period, the judgment of this I.A shall be terminated automatically.

7. As such, this I.A filed by the Petitioner-Appellant is disposed of finally.

(ANANDA CHANDRA BEHERA)
JUDGE

High Court of Orissa, Cuttack
Dated the 17 .04. 2026/ Pradeep