

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****242****FAO-5985-2023(O&M)****Date of decision: 22.04.2026****Smt. Seema & Others****...Appellant(s)****Vs.****Raj Kumar & Others****...Respondent(s)***********CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Ms. Riya Malik, Advocate
for the appellants.

*********NIDHI GUPTA, J.****CM-20439-CII-2023**

This is an application under Section 5 of the Limitation Act for condonation of delay of 4960 days in filing the appeal.

The reason for condonation of such inordinate delay in filing the present appeal is mentioned in Para 2 of the application, which is as under:-

"2. That it is factual position of the aforesaid matter that the applicants/appellants engaged the counsel for filing the appeal in the year 2008 within time for filing the aforesaid appeal and thereafter counsel filed the said appeal on 21.04.2008. But in aforesaid matter registry raised objection as No.200451 titled as "Seema and others Vs. Raj Kumar and others" (Advocate Name Sanjay Vij, P-170-1985) on 05.08.2008. Due to bonafide mistake, the aforesaid counsel could not file the aforesaid appeal within



time and not clear the aforesaid objection. Therefore, in view of above said, poor applicants/appellants should not be sufferer of the mistake on part of the counsel... ..”

The above-said explanation given by the applicants/appellants is at mostly vague, cryptic and does not constitute sufficient cause to condone the inordinate delay of 4960 days in filing the appeal. The applicant cannot seek to circumvent the extraordinary and most inordinate of 4960 days by conveniently laying the entire blame upon the learned counsel. It has become a most reprehensible trend amongst litigants to seek to absolve themselves of entire responsibility to cover their carelessness in pursuing the litigation. In this regard, reference may be made to judgment of the Delhi High Court in “**Moddus Media Pvt. Ltd. v. M/s. Scone Exhibition Pvt. Ltd., (Delhi) : Law Finder Doc Id # 887148**”, wherein it has been held that:

“11. The litigant owes a duty to be vigilant of his rights and is also expected to be equally vigilant about the judicial proceedings pending in the court of law against him or initiated at his instance. The litigant cannot be permitted to cast the entire blame on the Advocate. It appears that the blame is being attributed on the Advocate with a view to get the delay condoned and avoid the decree. After filing the civil suit or written statement, the litigant cannot go off to sleep and wake up from a deep slumber after passing a long time as if the court is storage of the suits filed by such negligent litigants. Putting the entire blame upon the advocate and trying to make it out as if they were totally unaware of the nature or significance of the proceedings is a theory put forth by the appellant/applicant/defendant company, which cannot be accepted and ought not to have been accepted. The appellant is not a simple or rustic illiterate person but a Private Limited Company



managed by educated businessmen, who know very well where their interest lies. The litigant is to be vigilant and pursue his case diligently on all the hearings. If the litigant does not appear in the court and leaves the case at the mercy of his counsel without caring as to what different frivolous pleas/defences being taken by his counsel for adjournments is bound to suffer. If the litigant does not turn up to obtain the copies of judgment and orders of the court so as to find out what orders are passed by the court is liable to bear the consequences.”

Moreover, in recent years, the Hon’ble Supreme Court has come down heavily on the malaise of lackadaisical litigants. It is to be appreciated that over a period of time the rights of the parties get crystallised. It is, therefore, the bounden duty of every litigant to pursue his case diligently; as it is also the bounden duty of this Court to ensure that justice inures to both parties concerned. This is the very purpose of the law of limitation. Delay in pursuing a remedy is prejudicial to the rights of the other party. The Apex Court has also taken due note of the fact that over a period of time, rights of parties get crystallised. Reference is made to a recent judgment of the Hon’ble Supreme Court in **Union of India v. Jahangir Byramji Jeejeebhoy (SC) : Law Finder Doc Id # 2537649**, decided on 03.04.2024, as under:-

“25. It hardly matters whether a litigant is a private party or a State or Union of India when it comes to condoning the gross delay of more than 12 years. If the litigant chooses to approach the court long after the lapse of the time prescribed under the relevant provisions of the law, then he cannot turn around and say that no prejudice would be caused to either side by the delay being condoned. This litigation between the parties started



sometime in 1981. We are in 2024. Almost 43 years have elapsed. However, till date the respondent has not been able to reap the fruits of his decree. It would be a mockery of justice if we condone the delay of 12 years and 158 days and once again ask the respondent to undergo the rigmarole of the legal proceedings.

26. The length of the delay is a relevant matter which the court must take into consideration while considering whether the delay should be condoned or not. From the tenor of the approach of the appellants, it appears that they want to fix their own period of limitation for instituting the proceedings for which law has prescribed a period of limitation. Once it is held that a party has lost his right to have the matter considered on merits because of his own inaction for a long, it cannot be presumed to be non-deliberate delay and in such circumstances of the case, he cannot be heard to plead that the substantial justice deserves to be preferred as against the technical considerations. While considering the plea for condonation of delay, the court must not start with the merits of the main matter. The court owes a duty to first ascertain the bona fides of the explanation offered by the party seeking condonation. It is only if the sufficient cause assigned by the litigant and the opposition of the other side is equally balanced that the court may bring into aid the merits of the matter for the purpose of condoning the delay.

27. We are of the view that the question of limitation is not merely a technical consideration. The rules of limitation are based on the principles of sound public policy and principles of equity. We should not keep the 'Sword of Damocles' hanging



over the head of the respondent for indefinite period of time to be determined at the whims and fancies of the appellants

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35. *In a plethora of decisions of this Court, it has been said that delay should not be excused as a matter of generosity. Rendering substantial justice is not to cause prejudice to the opposite party. The appellants have failed to prove that they were reasonably diligent in prosecuting the matter and this vital test for condoning the delay is not satisfied in this case.*

(Emphasis added)

Again, in **Pathapati Subba Reddy (Died) by LRs and others vs.**

The Special Deputy Collector (LA), Law Finder Doc Id # 2542600, the Hon'ble Supreme Court has recently held as under: -

"26. On a harmonious consideration of the provisions of the law, as aforesaid, and the law laid down by this Court, it is evident that:

(i) Law of limitation is based upon public policy that there should be an end to litigation by forfeiting the right to remedy rather than the right itself;

(ii) A right or the remedy that has not been exercised or availed of for a long time must come to an end or cease to exist after a fixed period of time;

(iii) The provisions of the Limitation Act have to be construed differently, such as Section 3 has to be construed in a strict sense whereas Section 5 has to be construed liberally;



(iv) In order to advance substantial justice, though liberal approach, justice-oriented approach or cause of substantial justice may be kept in mind but the same cannot be used to defeat the substantial law of limitation contained in Section 3 of the Limitation Act;

(v) Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power is discretionary in nature and may not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence;

(vi) Merely some persons obtained relief in similar matter, it does not mean that others are also entitled to the same benefit if the court is not satisfied with the cause shown for the delay in filing the appeal;

(vii) Merits of the case are not required to be considered in condoning the delay; and

(viii) Delay condonation application has to be decided on the parameters laid down for condoning the delay and condoning the delay for the reason that the conditions have been imposed, tantamounts to disregarding the statutory provision.”

(Emphasis added)

I am in complete agreement with the above view expressed by the Hon’ble Apex Court. In the present case, as already noted above, no cogent or plausible explanation has been given by the applicants for condonation of aforesaid inordinate and un-explained delay in filing the present appeal.



In this regard, reliance may also be placed upon recent judgment of Hon'ble Supreme Court in **"Shivamma (Dead) by LRs Vs. Karnataka Housing Board & Others"** Civil Appeal No.11794 of 2025 decided on **12.09.2025**. To condone such an inordinate delay, would be tantamount to declaring the Law of Limitation as redundant; and would also be prejudicial to the rights of the opposite party.

Accordingly, the present application stands **dismissed**.

MAIN CASE

Since the application for condonation of delay has been dismissed, no ground is made out to entertain/consider the present appeal on merits. Consequentially, the appeal is also **dismissed**.

Pending application(s) if any also stand(s) disposed of.

22.04.2026

Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No