

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Restoration Application No. 22/2026

Devraj S/o Madanlal, Aged About 83 Years, R/o Chandaroon,
Tehsil Degana, Dist. Nagaur (Raj.)

-----Petitioner

Versus

1. Lrs Of Balkishan, Son Of Madanlal (Died) Through Lrs
2. Kanta D/o Balkishan, W/o Omprakash Nagauri R/o Rukmani, Sadan, Madhava Road, Phase No. 2, Belganv, Karnataka
3. Lata D/o Balkishan, W/o Ashutosh R/o Ojha Bhawan, Fatehpole, Jodhpur,raj.
4. Basanti D/o Balkishan, W/o Benilal W/o Ashutosh R/o Ojha Bhawan, Fatehpole, Jodhpur,raj.
5. Varsha D/o Balkishan, W/o Vishvabandhu Pareek R/o Shivji Ka Mandir, Yamna Bawari, Shahpura, Dist. Bhilwara,raj.
6. Dhapu Devi W/o Balkishan, R/o D-4, Near Gurudatt Meera Housing Society, Madhu Nagar Road, Sangali, Maharashtra
7. Bankatlal S/o Balkishan, Resident Of D-4, Near Gurudatt Meera Housing Society, Madhu Nagar Road, Sangali. Maharashtra
8. Bhagirath S/o Madanlal, (Died) Through Lrs
9. Santosh D/o Bhagirath, W/o Sunil Kumar Ojha R/o 403/404 Gomati Complex, Shivaji Chowk, Ajay Nagar, Bhivnadi, Maharashtra
10. Manisha D/o Bhagirath, W/o Kailash R/o Birchhiwas, Post Mangiliyawas, Tehsil Pinsangan, Dist. Ajmer
11. Raju D/o Bhagirath, W/o Gopal R/o Reed Tehsil Parbatsar, Dist. Nagahr,raj.
12. Amarchand S/o Bhagirath, Resident Of Chandaroon, Tehsil Degana, District Naguar Rajasthan
13. Bhinvraj S/o Madanlal, Resident Of Chandaroon, Tehsil Degana, District Naguar Rajasthan
14. Sukhdev S/o Bhinvraj, Resident Of Chandaroon, Tehsil Degana, District Naguar Rajasthan

15. Prakash S/o Bhinvraj, Resident Of Chandaroon, Tehsil Degana, District Naguar Rajasthan
16. Dilip S/o Bhinvraj, Resident Of Chandaroon, Tehsil Degana, District Naguar Rajasthan

----Respondents

For Petitioner(s) : Mr. Shyam Lal Kumawat
For Respondent(s) : -

HON'BLE MR. JUSTICE FARJAND ALI

Order

05/05/2026

1. The present Civil Misc. Restoration Application has been filed seeking restoration of S.B. Civil First Appeal No.33/2024, which came to be dismissed vide order dated 04.02.2025 passed by the learned Deputy Registrar (Judicial) for non-compliance of the order dated 06.01.2025 passed by this Court.
2. The same is barred by limitation by 203 days and, therefore, an application under Section 5 of the Limitation Act has also been filed seeking condonation of delay.
3. Heard learned counsel for the applicant on the application under Section 5 of the Limitation Act.
4. Learned counsel submitted that the dismissal order dated 04.02.2025 came to the knowledge of the applicant only in the first week of August, 2025, whereafter certified copies were immediately applied for and obtained and the present restoration application was thereafter filed without unnecessary delay. It has further been submitted that the applicant is aged about 83 years and the delay is neither deliberate nor intentional.

5. Having considered the submissions advanced and upon perusal of the material available on record, this Court finds that the applicant has satisfactorily explained the delay occurring from the date of knowledge of dismissal till filing of the present restoration application. The explanation furnished appears to be bona fide and no material is available on record to indicate deliberate negligence or intentional inaction on the part of the applicant. The respondents were not served before passing of the order above and therefore, in my humble opinion, they are not required to be heard on this aspect of the matter. The appeal involves valuable rights of the appellant, which have not been adjudicated on merits, rather on the technical grounds. This court is of the view that a statutory appeal should be decided on merits.

6. Accordingly, the application under Section 5 of the Limitation Act is allowed. Delay in filing the restoration application is condoned.

7. Heard learned counsel for the applicant on the restoration application.

8. Learned counsel submitted that pursuant to the order dated 06.01.2025, the applicant had already filed an application for condonation of delay online on 07.01.2025 and hard copy thereof was also submitted before the Registry, however, the said application was not tagged with the appeal file and consequently the appeal came to be dismissed for non-compliance vide order dated 04.02.2025.

9. Having considered the submissions advanced and upon perusal of the material available on record, this Court finds that the appeal came to be dismissed for non-compliance and not on merits. The applicant has specifically pleaded prior compliance pursuant to the order dated 06.01.2025 and has also placed material regarding online filing of the application. In the facts and circumstances of the case, this Court is satisfied that sufficient cause has been shown for restoration of the appeal.

10. Consequently, the restoration application is allowed. The order dated 04.02.2025 passed by the learned Deputy Registrar (Judicial) in S.B. Civil First Appeal No.33/2024 is recalled and the said appeal is restored to its original number.

11. Office is directed to proceed further in accordance with law.

(FARJAND ALI),J