



HIGH COURT OF JUDICATURE AT ALLAHABAD
MATTERS UNDER ARTICLE 227 No. - 10730 of 2025

Gopi Chandra

.....Petitioner(s)

Versus

Ram Manohar And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Devesh Kumar Sharma, Rahul Sahai, Surya Prakash Dubey
Counsel for Respondent(s)	: Arvind Srivastava, Fakhruzzaman

Court No. - 5

HON'BLE VIKAS BUDHWAR, J.

Contention of the learned counsel for the defendant-petitioner is that though a suit, O.S. No. 124 of 2001 came to be instituted by the plaintiff-respondents which came to be decreed *ex parte* on 02.12.2002 by the trial court and post gaining knowledge on 19.07.2021, a delay condonation application under Section 5 of the Limitation Act along with an application under order IX Rule 13 of the CPC came to be preferred and the trial court on 29.04.2022 came to the conclusion that in a collateral proceedings, the judgement and the decree dated 02.12.2002 was already placed and the defendant-petitioner had the knowledge of the same on 27.05.2021, thus, the application under order IX Rule 13 of the CPC was to be filed within limitation i.e. 30 days in view of Article 123 of the Limitation Act by 26.06.2021, however, the same came to be preferred on 19.07.2021, thus, in absence of any day to day explanation for condonation of the delay, the trial court rejected, the Section 5 Application on 29.04.2022 against which the defendant-petitioner preferred an appeal which came to be allowed on 19.12.2023 by the appellant court remanding the matter back and now the trial court again has gone beyond the remand order while dismissing the Section 5 application accompanied with order IX Rule 13 of the CPC on the ground that there has been no explanation so set forward for 19 years is not sustainable and against which the appeal has been rejected.

Shri Fakhruzzaman, learned counsel for the decree holder/ plaintiff contesting respondents seeks time to examine the said aspect.

On his request, put up this case on **16.04.2026 at 3.50 PM** as fresh.

April 10, 2026
Ashu

(Vikas Budhwar,J.)