



2026:AHC-LKO:19805

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

FIRST APPEAL FROM ORDER DEFECTIVE No. - 460 of 2016

State Of U.P.Thru District Magistrate Lakhimpur
Kheri And Anr.

.....Appellant(s)

Versus

Kulwant Singh

.....Respondent(s)

Counsel for Appellant(s)
Counsel for Respondent(s)

: C.S.C.
:

Court No. - 20

HON'BLE PRASHANT KUMAR, J.

C.M. Delay Condonation Application No.54154 of 2016

1. This is an application for condonation of delay in filing the instant appeal.
2. This first appeal from order has been filed by the appellant-State against the judgment and order dated 12.08.1996 passed by the Additional District Judge-III, Lakhimpur Kheri in Misc. Case No.1 of 1996.
3. The office has reported delay of 19 years and 6 months and 7 days in filing the instant appeal.
4. The reasons given in the affidavit filed in support of delay condonation application for delay are as follows:

"2- That the civil Revision No. 66 of 1997 was filed by the appellants before this Hon'ble Court challenging the impugned judgment and order dated 12.08.1996 passed by the Learned IIIrd Additional District Judge Lakhimpur Kheri.

3- That during the pendency of the aforesaid revision it was brought to the notice of the Hon'ble Court that the impugned judgment and order dated 12.08.1996 is appellable in view of the provisions contained under Order 43 Rule 1 (t) of the Code of Civil Procedure and consequently the same was dismissed as not maintainable vide judgment and order dated 15.07.2015. The photocopy of the judgment and order dated 15.07.2015 is being filed herewith as ANNEXURE NO. 1 to this affidavit

4- That thereafter the appellants were advised for filing the present appeal by the office of the Chief Standing Counsel Lucknow and consequently the appellants sought permission from the law department of the State of U.P. for filing the present appeal.

5- That the law department accorded the necessary permission vide its letter dated 16.03.2016.

6- That the Divisional Forest Officer South, Kheri vide its letter dated 31.03.2016 requested the Chief Standing Counsel for filing the instant appeal and on the basis of the same the officials of the Forest Department contacted the office of the Chief Standing Counsel on 13.04.2016 for filing the instant appeal, and consequently the file was allotted to the State Law Officer for drafting the instant appeal on 13.04.2016 itself.

7- That subsequently the officials of the appellant contacted the State Law Officer for preparation of the instant appeal who advised the official to bring the necessary documents alongwith the certified copy of the impugned judgment and order dated 12.08.1996.

8- That the certified copy of the judgment and order dated 12.08.1996 was applied on 02.05.2016 and the same was supplied to the appellant on 04 05.2016

9- That the officials of the department contacted the State Law Officer for preparation of the instant appeal after obtaining the certified copy of the impugned judgment and order dated 12.08.1996 and immediately thereafter the instant appeal was prepared

10- That it would not be out of place to mention here that since under the wrong legal advice Civil Revision No. 66 of 1997 was preferred by the appellants against the impugned judgment and order dated 12.08.1996 which subsequently dismissed as not maintainable by this Hon'ble Court on 15.07.2015. was

11- That from the facts and circumstances mentioned above it is apparent that the appellants can not be said to be guilty of delay or laches or of inaction rather the delay in filing the appeal has

occurred due to reasons mentioned above.

12- That in view of the above it is highly expedient in the interest of justice that the delay in filing the instant appeal same may kindly be condoned by extending benefit of Section 5 read with Section 14 of the Limitation Act and the appeal may be treated to have been filed within time and the same may be heard and decided on merits."

5. Factual matrix in this matter is that one Smt. Asha Singh filed a suit no.301 of 1983 for permanent injunction against the State of U.P. and Forest Department of U.P. which was dismissed on 24.09.1985. Thereafter, an appeal was filed which was allowed ex-parte on 18.05.1995. Thereafter, an application under Order 41 Rule 21 CPC was filed on 10.01.1996 after a lapse of eight months by present appellant. It was time barred, therefore, an application under Section 5 of Limitation Act was filed which application was also dismissed vide impugned order dated 12.08.1996 on the ground of delay. Thereafter the same was challenged by way of filing Civil Revision No.66 of 1997 which was filed on 18.09.1997 after a delay of 2 and half years, and this revision was dismissed on 15.07.2015 on the ground that the same was not maintainable however, the liberty was given to challenge as per law. A correction application was filed on 14.09.2015 and the same was decided on 17.09.2015 qua the name of the parties.

6. Thereafter a letter was sent to the Chief Conservator Forest on 24.09.2015 and on the same day the Chief Conservator Forest had directed the Divisional Forest Officer to file the appeal. After a lapse of 20 days, a legal opinion is said to have been taken on 23.11.2015 and thereafter, the Divisional Forest Officer forwarded the matter with the facts of the case to the Chief Conservator Forest. After a lapse of 18 days, the Chief Conservator Forest forwarded the same to the State for filing the appeal and the appeal was filed.

7. Thereafter the file kept moving from one office to another and ultimately, the appeal was filed on 25.05.2016.

8. No sufficient cause for the delay has been shown and only excuses seems to have been made by the State. No cause was shown as to why there was delay of 2 years and 4 months from the date of impugned order to the date of filing of revision. Even assuming and giving benefit of pendency of the revision which was dismissed on 15.07.2015 the instant appeal was filed

after almost gap of ten months. The reason stated by the appellatn is purely bureaucaratic and they cannot get advantage of such a bureaucratic delay.

9. Learned counsel for the appellants further submits that the Hon'ble Supreme Court in the matter of **State of Haryana Versus. Chandra Mani and others** reported in [(1996) 3 SCC 132] has held that certain amount of latitude within reasonable limits permissible having regard to the impersonal bureaucratic set up involved in red tapism. The State should not be put on the same footing as an individual. Hence the delay which was so occasioned may be condoned.

10. Heard learned counsel for the appellant and perused the record.

11. A bare perusal of the affidavit filed in support of the application for condonation of delay in filing appeal shows that an effort has been made by the appellants to justify the delay. Rather than furnishing a satisfactory explanation, it merely offers an excuse in the delay condonation application.

12. Before proceeding further, Section 5 of the Limitation Act is being reproduced hereinunder:-

"5. Extension of prescribed period in certain cases.—

Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908 (5 of 1908), may be admitted after the prescribed period, if the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period.

Explanation.—*The fact that the appellant or the applicant was misled by any order, practice or judgment of the High Court in ascertaining or computing the prescribed period may be sufficient cause within the meaning of this section."*

13. A plain reading of the Section 5 of the Limitation Act clearly shows that an appeal may be admitted after the prescribed period, if the appellant satisfies the Court that he had sufficient cause for not preferring the appeal within such prescribed time. The burden to prove sufficient cause lies on the appellant, who is seeking condonation of delay and he has to prove sufficient cause that the reasons for not approaching the court are real, bonafide and free of negligence.

14. The Hon'ble Supreme Court in the matter of **Lanka Venkateswariu v State of A.P.** reported in **MANU/SC/0153/2011** deprecated the High Court

in condoning the delay in filing of the appeal therein, that was occasioned not by any unavoidable circumstance, but by the sheer Inefficiency and ineptitude of the Government Pleaders concerned, merely because the party seeking condonation happened to be the State.

15. Further, the Hon'ble Supreme Court in the matter of **Postmaster General and others vs. Living Media India Limited and another** reported in [(2012) 3 SCC 563] has held that the State cannot claim that they have a separate period of limitation and in the absence of plausible and acceptable explanation, delay cannot be condoned in the mechanical manner just because the Government or its instrumentality is a party before the Court. The Hon'ble Supreme Court further went to hold that the department cannot take advantage of earlier decisions and claim on account of impersonal machinery and inherited bureaucratic methodology or making several notes cannot be accepted in view of the Modern Technologies being available. The law of limitation bounds everybody equally including the government.

16. A similar view was reiterated by the Hon'ble Supreme Court in **Government of Maharashtra (Water Resources Department) represented by Executive Engineer v. Borse Brothers Engineers and Contractors Pvt. Ltd** reported in (2021) 6 SCC 460 wherein the Hon'ble Supreme Court placing reliance on **Postmaster General** (supra) held that a different yardstick for condonation of delay cannot be laid down merely because the Government is involved.

17. The Hon'ble Supreme Court in the matter of **State of Odisha and ors. vs. Sunanda Mahakuda** reported in (2021) 11 SCC 560 has held that the leeway which was earlier enjoyed by the State and its instrumentalities on account of bureaucratic inefficiencies in matters of condonation of delay is no longer available in view of the technological advancement and the shift in jurisprudence as elucidated in **Postmaster General** (supra).

18. Similarly, in **State of U.P. v. Sabha Narain**, reported in (2022) 9 SCC 266, the Hon'ble Supreme Court once again deprecated the tendency of State and its Instrumentalities to proceed on the assumption that they may approach the courts at their own convenience and sweet will, disregarding the period of limitation prescribed by statute, as though the Limitation statute does not apply to them. It held that the leeway which was at one point extended to the Government/public authorities on account of innate functional inefficiencies is no more the norm, particularly in the wake of the decision of **Postmaster General** (supra).

19. The Hon'ble Supreme Court in the matter of **Shivamma (Dead) by Lrs.**

versus Karnataka Housing Board and others, 2025 SCC Online SC 1969
has held as follows:-

"210. What may be discerned from the aforesaid is that the jurisprudence on condonation of delay under Section 5 of the Limitation Act, particularly where the State or any of its instrumentality is involved, has witnessed a significant shift. From a regime that once accorded preferential indulgence to the State, premised on its bureaucratic complexities and institutional inertia, the law has now evolved to insist upon parity between the government and private litigants. The rationale is that public interest is better served not by excusing governmental inefficiency, but by fostering accountability, diligence, and responsibility in the conduct of public litigation.

** * **

230. To permit condonation of delay to become a matter of course for the Government would have the deleterious effect of institutionalising inefficiency. It would, in substance, incentivise indolence and foster a culture where accountability for delay is eroded. If the State is assured that its lapses will invariably be excused under the rubric of "public interest," there would remain little incentive for its officers to act with vigilance or for its instrumentalities to streamline procedures for timely action. The consequence would not be the advancement of public interest but rather its betrayal.

232. It must, therefore, be underscored that the guiding principle is not the protection of governmental indifference but the promotion of responsible governance. The State is under a higher duty to act in time, for in every matter it litigates, it does so not in its private capacity, but as the trustee of the people's interest. Hence, repeated indulgence in condoning delays on grounds of bureaucratic inefficiency would amount to eroding the very object of limitation statutes, which are enacted in every civilised jurisdiction for the sake of finality, certainty, and public order.

249. Once the State chooses to litigate, it must shoulder the same responsibilities and abide by the same limitations that bind every litigant. To permit the State to evade the consequences of delay on the ostensible plea that the fault lay with individual officers

would amount to diluting the rigour of limitation statutes and undermining their very object. Such an approach would not only privilege the State unjustly over private parties but would also perpetuate a culture of indifference and irresponsibility within the administration.

* * *

261. Thus, for the reasons aforesaid, the impugned order of the High Court deserves to be set aside. Before we proceed to close this judgment, we deem it appropriate to make it abundantly clear that administrative lethargy and laxity can never stand as a sufficient ground for condonation of delay, and we want to convey an emphatic message to all the High Courts that delays shall not be condoned on frivolous and superficial grounds, until a proper case of sufficient cause is made out, wherein the State-machinery is able to establish that it acted with bona fides and remained vigilant all throughout. Procedure is a handmaid to justice, as is famously said. But courts, and more particularly the constitutional courts, ought not to obviate the procedure for a litigating State agency, who also equally suffer the bars of limitation from pursuing litigations due to its own lackadaisical attitude.

262. The High Courts ought not give a legitimizing effect to such callous attitude of State authorities or its instrumentalities, and should remain extra cautious, if the party seeking condonation of delay is a State-authority. They should not become surrogates for State laxity and lethargy. The constitutional courts ought to be cognizant of the apathy and pangs of a private litigant. Litigants cannot be placed in situations of perpetual litigations, wherein the fruits of their decrees or favourable orders are frustrated at later stages. We are at pains to reiterate this everlasting trend, and put all the High Courts to notice, not to reopen matters with inordinate delay, until sufficient cause exists, as by doing so the courts only add insult to the injury, more particularly in appeals under Section 100 of the CPC, wherein its jurisdiction is already limited to questions of law."

20. In view of the ratio laid down by the Hon'ble Supreme Court in the catena of judgments, it is clear that the State or its instrumentalities has to be treated at par with any individual, the law of limitation cannot be said to be different for them.

21. The appellants have tried to justify the delay but the reasons given in the affidavit seems more like an excuse than a "sufficient cause" which hold them back from filing the appeal within time.

22. Considering the aforesaid facts and circumstances, this Court finds that a bleak effort has been done to justify the delay; the delay as stated in the affidavit does not show sufficient cause and accordingly, the instant application for condonation of delay is **rejected**.

23. Consequently, the appeal is also **dismissed** on the ground of delay and laches.

24. It is open for the State to take action against the officers who are responsible for such delay.

March 18, 2026
Saurabh Yadav/-

(Prashant Kumar,J.)