



2026:AHC:11472

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - B No. - 5318 of 2025

Prem Singh

.....Petitioner(s)

Versus

The State of U.P. and 5 others

.....Respondent(s)

Counsel for Petitioner(s)	: Vishal Khandelwal
Counsel for Respondent(s)	: Ajai Kumar Malviya, Avinash Chandra Srivastava, C.S.C., Rajesh Kumar Singh

A.F.R.

Court No. - 55

HON'BLE SIDDHARTH NANDAN, J.

1. Heard Sri Vishal Khandelwal, Advocate, learned counsel appearing for the petitioner, learned Standing Counsel on behalf of respondents no. 1 to 4, Sri Avinash Chandra Srivastava, Advocate, learned counsel appearing for the respondent no.5 and Sri Ajai Kumar Malviya, learned counsel for the respondent no.6.

2. Since the question involved is purely legal in nature, therefore, with the consent of the parties, the present writ petition is being decided at the admission stage itself.

Facts:-

3. The petitioner has assailed the order dated 4.11.2025 passed by the respondent no.2 in Revision No.86 of 2023 (Computerized No.AG202301010086) by way of which the remand order dated 19.4.2023 has been set aside. It is admitted between the parties that in

proceedings under Section 28 of the Land Revenue Act, 1901 an order dated 26.11.2007 was passed in favour of the respondent no.6; and against which after more than 11 years a restoration application dated 23.6.2018 was filed by the State for recall of the order dated 26.11.2007 and similarly a restoration application dated 15.6.2018 was also filed by the petitioner for the recall of the very same order dated 26.11.2007, which was initially rejected vide order dated 29.1.2020 but subsequently the revision was allowed vide order dated 19.4.2023 and the matter was remanded back for fresh decision on the restoration application. It is against this order dated 19.4.2023 that a revision was filed before the Board of Revenue by respondent no.6 and vide order dated 4.11.2025 the said revision has been allowed, which is impugned to the present writ petition.

Arguments:-

4. Learned counsel for the petitioner has argued that a report which was submitted by Naib Tehsildar was only with respect to plot no.25 and no measurements were made regarding plot no.75, which admittedly belongs to respondent no.6 and as per his claim; and which was reduced by merging a part of the area in plot no.75 to plot no. 25. He has attracted our attention to the said report to state that the area of plot no.25 was found to be 0.553 hectares and the same remain unchanged but still vide the order dated 26.11.2007 the area from plot no.25 was merged into plot no.75, whereby giving unwarranted benefit to respondent no.6.

5. Per contra Sri Ajai Kumar Malviya, learned counsel for the respondent no.6 has submitted that the report dated 20.9.2007 (annexure-3) clearly indicates that an area out of plot no.75 was taken out and merged into plot no.25 and further that the order dated 26.11.2007 was passed after hearing the State and being passed on the basis of the report dated 20.9.2007; and at the behest of the petitioner, the same cannot be re-agitated, as such the present petition not being in the nature of public interest litigation, the petitioner has no locus standi to challenge the said

proceedings. He has further submitted that there are various criminal cases which are pending between the petitioner and respondent no.6, the details of which are given herein below:-

- (i) Application U/S 482 No. 40621 of 2022, Prem Pratap Singh Vs. State of U.P. and another (S.T. No. 664 of 2018 (State Versus Jagvir and others), arising out of Case Crime No. 863 /2018, under Section 308, 506 IPC, Police Station- New Agra, District-Agra)
- (ii) Application U/S 482 No. 4558 of 2024, Prem Singh and 6 others Vs. State of U.P. and others (S.T. No.1077 of 2023, arising out of Complaint Case No.136 of 2022 (Ranjeet Singh Vs. Prem Singh & others), under Section 395 I.P.C., P.S. Tajganj, District- Agra, pending in the court of learned Special Judge (D.A.A.)/Additional Sessions Judge, Court No.13, Agra.)
- (iii) Criminal Misc. Bail Application No.42140 of 2023, Prem Singh Vs. State of U.P. and others (S.T. No.1077 of 2023, under Section 395 IPC, Police Station Tajganj, District Agra)

6. In response the counsel for the petitioner while relying upon the judgement of this Court in ***Surajdeo Vs. Board of Revenue, U.P. Allahabad and others***¹ has submitted that even a third person can bring correct facts to the notice of the courts concerned and the courts concerned will be fully justified in acting upon the information received. He has relied upon the para 14 & 18 of the said judgement which is reproduced herein below:-

"14. No doubt the observations made in the above case support the contention raised on behalf of the contesting opposite parties. To my mind, the observations made by the learned Member are too wide and they cannot be accepted as laying down quite correct law. There may be cases where a third per-son can bring correct facts to the notice of the courts concerned and the courts concerned will be fully justified in acting upon the information received and in exercising powers u/s 151 C. P. C. In the present case I think that the petitioner was fully justified in bringing correct facts to the notice of the trial court which rightly proceeded on the information received and has

¹ AIR 1982 Allahabad 23

rightly set aside the ex parte decrees in favour of the contesting opposite parties.

18. The perusal of the judgment dated 10-6-1969 delivered by the trial court indicates that the trial court has set aside the ex parte decrees on the ground that fraud had been practised upon the Court and that there was no previous approval of the Assistant Collector in charge of the Sub-division for allotting the disputed land to the contesting opposite parties as Sirdars. To my mind, the trial court has set aside the ex parte decrees in favour of the contesting opposite parties on the ground that the ex parte decrees were passed in favour of the contesting opposite parties without looking into the provisions of law, hence the Court had committed an error of law in passing the ex parte decrees in favour of the contesting opposite parties which deserved quashing and were rightly set aside by the trial court through the order dated 10-3-1969. Thus a wrong committed by the trial court on 7-9-1962, in passing ex parte decrees in favour of the contesting opposite parties has been set right by the trial court through its later order dated 10-6-1969."

7. He has also relied upon the judgement of this Court in ***Vinay Kumar Chowdhary Vs. Ghanshyam Narain Kohli²***, to submit that an application for condonation of delay can be filed by a person not a party to the proceeding, merely with an averment that he has moved the application for recalling the order when he came to know with the order and as such he is not required to explain the delay. He has relied upon para 6 & 7 of the said judgement which is reproduced herein below:-

"6. Another reason for not interfering in the order is that application for condonation of delay in this case was only a formality, which was not at all required. The opposite party who moved the application was not a party to the proceedings and he moved the application for recalling the order when he came to know of the order. Therefore, he was not required to explain the delay. The only requirement was to show as to when he came to know the order. Therefore, the main question for consideration was regarding the ground for recalling the order. The first argument of the learned counsel for the revisionist therefore, cannot be accepted.

7. It is further contended that order 9 Rule 13 C.P.C. does not apply in the present case. It is contended that the opposite party was not party to the proceedings, therefore, he cannot take resort to the provisions of order 9, Rule 13 C.P.C. and his application was not

maintainable. It is also contended that proceedings are miscellaneous proceedings and therefore, the provisions of Order 9, Rule 13 C.P.C. does not apply. "

Factual Consideration/Findings:-

8. The application dated 15.6.2018 indicates that the petitioner had gained the knowledge about the order dated 26.11.2007 from the Pradhan, Gram Panchayat on 4.6.2018 and accordingly he has filed the restoration application. Similarly, the restoration application dated 23.6.2018 filed by the State also contains the averments that when a complaint was made on 18.6.2018 and the records were checked, the State also came to know about the order dated 26.11.2007.

9. Learned counsel for the respondents have urged at this stage that the nature of the land is that of a road and the respondent no.6 was exercising his right over the area which was allowed to him vide order dated 26.11.2007 and accordingly, by merely stating that they got the knowledge subsequently in the year 2018 i.e. after 11 years, cannot be an acceptable explanation for filing the restoration application. As far as the judgement in the case of **Surajdeo (Supra)** is concerned it pertains to an ex-parte decree and was assailed on the ground of fraud, which is not applicable to the facts of the present case. The judgement in the case of **Vinay Kumar Chowdhary (Supra)** also pertains to reasoning given in the delay condonation application i.e. the date of knowledge is an acceptable explanation for not explaining the delay otherwise. However the statement regarding the date of knowledge cannot be accepted in the facts of the present case, as the nature of the Plot no. 25 is that of the 'Road' and since after the order dated 26-11-2007, Respondent no. 6 was exercising his rights over the same, it would have been a public knowledge; and also the criminal cases between the parties cannot be lost sight of. Therefore the ratio of **Vinay Kumar Chowdhary (Supra)** case is also not applicable in the present case.

10. This Court also takes note of the fact that it has become an increasing tendency between the litigants that in order to settle some score, the

parties tend to open old settled issues, in order to harass the other side. However, this is not to mean that in case there is a “sufficient cause” and in spite of due diligence but due to want of knowledge, an exercise of remedy has been omitted, then by way of providing a sufficient explanation to the delay, the parties cannot be precluded from exercising their remedy, which otherwise is available qua a proceedings.

11. The Apex Court while considering the law of limitation, in the case of **Union of India and others Vs. Jahangir Byramji Jeejeebhoy (D) through his L.R.**³ has recently re-affirmed a ratio, that the ‘Rules of Limitation’ are based on the Principles of sound public policy and principles of equity and keeping in mind that the ‘Sword of Damocles’ should not be left hanging over the head of one party, for indefinite period of time, to be determined at the whims and fancies of another party. It is also not the intent of the Legislatures, that ‘Rules of Limitation’ are meant to destroy the rights of the parties. They are meant to see that the parties do not resort to dilatory tactics, but seek their remedy promptly.

12. The Apex Court in the case of **N. Balakrishnan Vs. M. Krishnamurti**⁴ in para 11 held as follows:-

“... It is enshrined in the maxim interest reipublicae ut sit finis litium (it is for the general welfare that a period be put to litigation). Rules of limitation are not meant to destroy the right of the parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time.”

13. In the case of **Esha Bhattacharjee v. Managing Committee of Raghunathpur Nafar Academy & Others**,⁵ the Apex Court laid down the following Principles:

“21. From the aforesaid authorities, the principles that can broadly be culled out are:

21.1. (i) There should be a liberal, pragmatic, justice-oriented, non-pedantic approach while dealing with an

³ AIR 2024 SC 1884

⁴ 1998 (7) SCC 123

⁵ (2013) 12 SCC 649

application for condonation of delay, for the courts are not supposed to legalise injustice but are obliged to remove injustice.

21.2. (ii) The terms “sufficient cause” should be understood in their proper spirit, philosophy and purpose regard being had to the fact that these terms are basically elastic and are to be applied in proper perspective to the obtaining fact-situation.

21.3. (iii) Substantial justice being paramount and pivotal the technical considerations should not be given undue and uncalled for emphasis.

21.4. (iv) No presumption can be attached to deliberate causation of delay but, gross negligence on the part of the counsel or litigant is to be taken note of.

21.5. (v) Lack of bona fides imputable to a party seeking condonation of delay is a significant and relevant fact.

21.6. (vi) It is to be kept in mind that adherence to strict proof should not affect public justice and cause public mischief because the courts are required to be vigilant so that in the ultimate eventuate there is no real failure of justice.

21.7. (vii) The concept of liberal approach has to encapsulate the conception of reasonableness and it cannot be allowed a totally unfettered free play.

21.8. (viii) There is a distinction between inordinate delay and a delay of short duration or few days, for to the former doctrine of prejudice is attracted whereas to the latter it may not be attracted. That apart, the first one warrants strict approach whereas the second calls for a liberal delineation.

21.9. (ix) The conduct, behaviour and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go by in the name of liberal approach.

21.10. (x) *If the explanation offered is concocted or the grounds urged in the application are fanciful, the courts should be vigilant not to expose the other side unnecessarily to face such a litigation.*

21.11. (xi) *It is to be borne in mind that no one gets away with fraud, misrepresentation or interpolation by taking recourse to the technicalities of law of limitation.*

21.12. (xii) *The entire gamut of facts are to be carefully scrutinised and the approach should be based on the paradigm of judicial discretion which is founded on objective reasoning and not on individual perception.*

21.13. (xiii) *The State or a public body or an entity representing a collective cause should be given some acceptable latitude.*

22. *To the aforesaid principles we may add some more guidelines taking note of the present day scenario. They are:*

22.1. (a) *An application for condonation of delay should be drafted with careful concern and not in a haphazard manner harbouring the notion that the courts are required to condone delay on the bedrock of the principle that adjudication of a lis on merits is seminal to justice dispensation system.*

22.2. (b) *An application for condonation of delay should not be dealt with in a routine manner on the base of individual philosophy which is basically subjective.*

22.3. (c) *Though no precise formula can be laid down regard being had to the concept of judicial discretion, yet a conscious effort for achieving consistency and collegiality of the adjudicatory system should be made as that is the ultimate institutional motto.*

22.4. (d) *The increasing tendency to perceive delay as a non-serious matter and, hence, lackadaisical propensity can be exhibited in a nonchalant manner requires to be curbed, of course, within legal parameters.”*

Issues:-

14. From the aforesaid broader Principles, though they are not exhaustive, this Court finds that the questions to be determined in the facts of the present case are:-

- (i) whether there was lack of bonafides imputable to parties seeking condonation of delay; and
- (ii) whether in the present facts on account of the inordinate delay, the Doctrine of Prejudice is attracted or not; and
- (iii) whether the conduct, behaviour and attitude of a party leading to its inaction or negligence can be an attributable factor and the balance of justice between the parties in the background of a liberal approach, can be an acceptable factor, for condonation of delay?

Issue No. 1

15. The admitted facts of the present case are that in proceeding under Section 28 of the Code, 2006 an order was passed in favour of the respondent no.6, as long back as on 26.11.2007; and it is only in the year 2018 that the recall applications have been filed, with a sole explanation that the date of knowledge for the petitioner as well as the State was in June, 2018 and whereafter the recall applications dated 23.6.2018 and 15.6.2018 have been filed. It is also not disputed between the parties that plot no.25 is in the nature of a 'road' which is being utilized by the public at large, in the village.

16. It is a specific case of Respondent no.6, that he was utilizing the area which had merged in plot no.75 of which he is the tenure-holder; soon after the passing of the order dated 26.11.2007. In the said factual position, it cannot be lost sight of the fact that the reduced area of the road which is over Plot no.25, would have been evident and was an acceptable factor for the villagers, soon after passing of the order dated 26.11.2007.

17. Therefore, in the aforesaid admitted facts, it cannot be reasonably conceived that the petitioner was not aware of the area which has been reduced; and as such the maxim "*interest reipublicae ut sit finis litium*"

(it is for the general welfare that a period be put a litigation) is attracted, and a cloak of Elvenkind, cannot be permitted, as a camauflage, from giving a reasonable explanation to the delayed Application, sans a “sufficient cause”.

18. The object of the period of limitation is that every legal remedy must be kept alive for a legislatively fixed period of time and the extension to the same or the condonation for the delay must be examined judiciously and whether ‘sufficient cause’ has been pleaded in the application or not.

19. The Apex Court in the case of **State of Madhya Pradesh Vs. Ram Kumar Chaudhary**⁶ examined the question regarding the discretion to condone the delay and held that the delay has to be exercised judiciously based on the facts and circumstances of each case and that, the expression “sufficient cause” cannot be liberally interpreted, if negligence in action or lack of bona fide is attributed to the party; and delay cannot be excused as a matter of generosity and rendering substantial justice is not to cause prejudice to the opposite party. The ratio of **Union of India v. Jahangir Byramji Jee Jee Bhoy (D) (Supra)** has also been referred with affirmation in **State of Madhya Pradesh v. Ram Kumar Chaudhary (Supra)**. The relevant passage of the same is profitably extracted below:-

“ 24. In the aforesaid circumstances, we made it very clear that we are not going to look into the merits of the matter as long as we are not convinced that sufficient cause has been made out for condonation of such a long and inordinate delay.

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

6 2024 SCC Online SC 3612

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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34. In view of the aforesaid, we have reached to the conclusion that the High Court committed no error much less any error of law in passing the impugned order. Even otherwise, the High Court was exercising its supervisory jurisdiction under Article 227 of the Constitution of India.

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.

36. For all the foregoing reasons, this appeal fails and is hereby dismissed. There shall be no order as to costs."

20. In consideration of the settled legal position, there is no hesitation in my mind that in the background of the criminal cases between the parties and the nature of land being a 'Road', filing of a Restoration Application by merely stating that on getting the knowledge of the order dated 26-11-2007, only after 11 years of delay, cannot be seen as a "sufficient cause" and shows lack of bonafide by the Applicant/Petitioner, to re-agitate an order passed on merit, after hearing the State, who was a necessary party and petitioner only a third party.

Issue No. 2

21. A perusal of the order dated 26.11.2007 and the report dated 20.9.2007 gives sufficient evidence that area out of Plot no.75 was taken out and merged into plot no.25 and accordingly the prejudice was caused to respondent no.6; which cause of action resulted in the order dated 26.11.2007 passed under Section 28 of the Code, 2006 in favour of the respondent no.6.

22. The aforesaid order and the report also makes it evident that the same was passed after hearing the State and perusal of the report dated 20.9.2007. Now the question which also requires consideration is whether a third party after an inordinate delay of 11 years can move a restoration application, by merely stating that the date of knowledge was subsequent and as already stated herein above considering the nature of the land being 'road', can such a plea be accepted on the face of it. It will also be fruitful to have reference to the Full Bench decision of this Court reported in *Smt. Shiv Raji and others vs. Deputy Director of Consolidation and others*⁷ wherein it was found that once after service of notice upon the opposite parties (State/Gaon Sabha) an order has been passed on merit, an application in the garb of recall/restoration cannot lie before the authorities. The State/Gaon Sabha was fully aware of the proceedings and even the petitioner who claims himself to be the resident of the same village, cannot plead that though the area of the road was reduced as long back in the year 2007, he was not aware and suddenly when there arose a criminal dispute between the parties, he was

7 1997 RD 562

informed about the order dated 26.11.2007 and as such, as a third party, he filed a recall application.

23. That the Board of Revenue vide its order dated 4.11.2025 while allowing the revision has unsettled the position which existed since 2007 and the respondent no.6 is now being subjected to a fresh proceeding altogether. In the garb of the application for restoration/recall the review of the earlier order which has been passed decade ago cannot be permitted; as serious prejudice shall be caused to the respondent no.6. The merit of the Recall Application could only have been considered, after giving a finding of “sufficient cause” and adequate explanation for the inordinate delay in filing the Application, which cannot be borne out of either of the restoration applications i.e., of the petitioner or the State.

24. In view of the aforesaid, I have no hesitation in holding that the Doctrine of Prejudice is fully attracted to the facts of the present case. It is not a case of delay of short duration or few days, which would warrant a liberal approach and as such issue no. 2 is decided in favour of the respondent no.6. Once order dated 26-11-2007 was passed on merit, after seeking a fact finding report and hearing the State, application on behalf of a person who is pivoted against the Respondent no. 6 in a criminal proceeding, could not warrant a liberal approach, as it seriously prejudices the other side and Law of Limitations has to be read in, to put at knot the proceedings.

Issue no.3

25. It is also an admitted fact that there exist various criminal litigations between the petitioner and the respondent no.6 and suddenly when the said dispute arose between the parties, respondent no.6 procures the knowledge that the order dated 26.11.2007 is to be challenged, unsettling a settled position. In the said background, it cannot be said that a party who has lost his right because of his own in action for a long, is to be heard and the substantial justice deserves to be preferred as against the technical consideration. When there is a plea for condonation of delay, be it at the instance of private litigant or a State, the delay is to be

explained right from the time, the limitation starts, till it ends. The Principle that the date of knowledge, if sufficiently pleaded and can be borne out from the facts of the case, is an adequate explanation for condonation of delay and the applicant is not required to furnish explanation for the period prior to the date of knowledge, cannot be made applicable in the facts of the present case; since the conduct, behaviour and attitude of a party relating to its in action or negligence, are found to be wanted, in the facts of the present case. This Court when weighs the scale of balance of justice in respect of both the parties, finds that the respondents are in settled position and no other villager has come forward to dispute the said settled position but for the petitioner, who admittedly is in conflict of interest and engaged in a legal battle with the respondent no.6.

26. In view of the aforesaid the conduct of the petitioner is seriously questionable and as such the date of knowledge cannot be a sufficient explanation for condonation of delay and for not providing “sufficient cause” for the condonation of delay. As far as the State is concerned, they were party to the proceedings under Section 28 of the Code, 2006 which culminated in the order dated 26.11.2007 and as such their explanation that when a complaint was made, they came to know about the order dated 26.11.2007, again cannot be accepted.

Conclusion:-

27. It is no longer res integra that while considering application for condonation of delay, the Court do not enjoy unlimited and unbridled discretionary power. All discretionary power, specially judicial power have to be exercised within reasonable bounds, known to the law. The discretion has to be exercised in a systematic manner informed by reasons. Whims and fancies; prejudices or predilections cannot and should not form the basis of exercising discretionary power. It is for the general welfare that a period be put to litigations and once the said period exceeds certain positive rights accrues in favour of the litigant,

which can only be disturbed by showing “sufficient cause” and the explanation given has to be judged on the touchstone of:-

- (1) lack of bona fide imputable to a party seeking condonation of delay.
- (2) Liberal, pragmatic, justice oriented, non-pedantic approach for condonation of delay cannot be used to legalise injustice.
- (3) No presumptions can be attached but for gross negligence on the part of the counsel or litigant is to be taken note of.
- (4) the Doctrine of Prejudice is to be seen in cases of inordinate delay and as to whether any mischief is sought to be caused for which the conduct behaviour and attitude of a party is also to be seen.
- (5) The explanation has to be seen in the facts of each case and merely by emphasising a particular date of knowledge, it cannot form basis of relieving the applicant from giving explanation from the date of the limitation, till the actual date of filing of the application.
- (6) Fraud, misinterpretation can be an exception, but subject to the same being established by cogent evidence. State or a public body or an entity representing a collective cause can be given some acceptable latitude but before the same, the factual controversy is to be examined meticulously and cannot be allowed in a routine manner.

28. In the present case since plot no.25 pertains to a road and respondent no.6 having given a right vide order dated 26.11.2007, it can not be presumed that he was not exercising his right over the said road and as such the delay cannot be condoned merely on the statement that the date of knowledge was procured subsequently.

29. I have also perused the impugned order dated 4.11.2025. It is admitted that the order was not an ex parte order and prior to passing of the order dated 26.11.2007 reports were called upon and as stated herein above the report categorically stated that an area from plot no.75 was taken out and merged in plot no.25. The order dated 26.11.2007 was an order on merit and could not have been recalled merely on the asking, as the rights have already matured and being exercised by the respondent

no.6 for more than a decade now. The Board of Revenue has also given a finding that no explanation has been given in the restoration application/ Section 5 Application explaining the delay of 11 years for recall of the order dated 26.11.2007 which was an order on merit after hearing the affected parties.

30. The Court is also conscious of the fact that there is a long drawn litigation between the petitioner and respondent no.6 and as such the settled position could not have been disturbed on an application at the behest of the Petitioner and the nature of the land being “public road”, being used since long, is also a mitigating factor. The order dated 19.4.2023 was also an order not based on merit and as such the order dated 4.11.2025 passed by Board of Revenue cannot be faulted. From the perusal of the order date 19-04-2023, it also appears that without recording any reason whatsoever and by passing a cryptic order, the revision has been allowed.

31. The Apex Court in the case of **Surendra Kumar Jain Vs. Santo Bhai and others**⁸ has held that recording of reasons are sine qua non, after considering the factual matrix of each and every case.

32. In view of the aforesaid facts and circumstances, no succor can be given to the petitioner, as I do not find any merit in the writ petition and accordingly the same stands dismissed. However no order as to costs.

33. Before parting with the judgement, I would like to put in a word of appreciation for my Research Associate Miss Pratibha Verma for her dexterity in research and superlative assistance in drafting of this judgement.

(Siddharth Nandan,J.)

January 13, 2026

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