IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CMP(M) No. 203 of 2026
Reserved on: 28.09.2026
Decided on: 09.10.2026

Roshan Chaudhary ...Applicant/Appellant.

Versus

Kiran Aggarwal & others ...Respondents.

Coram:

***The Hon'ble Mr. Justice Romesh Verma, Judge*.**
Whether approved for reporting?[1]

For the applicant/appellant : Mr. J. R. Poswal, Advocate.

For the respondents : Respondent No.1 in person.

Respondent No.2 proceeded against ex-parte vide order dated 19.08.2026.

Mr.Deepak Sharma, Advocate, for respondents No. 3 to 5.

Romesh Verma, Judge

The instant application has been filed under Section 5 of the Limitation Act for condonation of delay in filing the Regular Second Appeal on behalf of the appellant/applicant.

2. As per the averments made in the application, it has been stated that the applicant had filed a Civil Appeal against the judgment and decree dated 15.09.2018 passed by the learned

[1] ***Whether reporters of Local Papers may be allowed to see the judgment?***

High Court of H.P.

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Senior Civil Judge, Kinnaur at Reckong Peo, District Kinnaur, H.P., in the Court of learned Additional District Judge, Kinnaur District at Rampur Bushahr,HP on 26.04.2019.

3. The said appeal was barred by limitation, and the learned First Appellate Court, after considering the pleadings of the parties had framed the issues on 28.08.2019 in the following manner:

> 1. Whether there are sufficient grounds to condone the delay in filing the appeal, as prayed for ? OPA
>
> 2. Relief.

4. The learned First Appellate Court directed the respective parties to adduce evidence in support of their contentions and, vide its impugned order dated 16.07.2024, dismissed the application filed by the present appellant under Section 5 of the Limitation Act, holding the appeal filed under Section 96 of the Code of Civil Procedure to be time-barred.

5. As per the case set up by the applicant, against the impugned order passed by the learned Additional District Judge, Kinnaur, at Rampur Bushahr dated 16.07.2024, he preferred Civil Revision Petition No. 205 of 2024, titled Roshan Chaudhary vs. Kiran Aggarwal and others, before this Court in October 2024.

High Court of H.P.

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6. Notices were issued in the said Civil Revision Petition and ultimately this Court, while relying upon the judgment of the Hon'ble Apex Court reported in ***(2005) 1 SCC 436***, titled as ***Shyam Sunder Sharma vs. Pannalal Jaiswal and Others***, held that against the dismissal of an application under Section 5 of the Limitation Act, a Civil Revision is not maintainable and vide its order dated 27.08.2025, dismissed the said Civil Revision Petition No. 205 of 2024 by granting liberty to the present applicant to pursue such remedies as are available to him in accordance with law.

7. After the passing of the order by this Court on 27.08.2025, the applicant instituted the present appeal along with an application under Section 5 of the Limitation Act for condonation of delay in filing the Regular Second Appeal.

8. It has been contended in the application that the applicant was pursuing the Civil Revision Petition in good faith, therefore, the delay that has occurred in filing the present appeal deserves to be condoned. It has been further stated that the applicant is not well-educated and does not know the intricacies of law.

9. The applicant was informed by his counsel to apply for certified copies of the judgment and decree passed by the

High Court of H.P.

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learned trial Court and the order dated 16.07.2024 passed by the learned First Appellate Court. After receiving the said copies, the applicant could not contact his counsel as he was not feeling well.

10. After obtaining the brief, the applicant contacted his present counsel on 20.12.2025, who told him that the present appeal was barred by limitation. Immediately thereafter, the present appeal and the application under Section 5 of the Limitation Act were prepared and filed without any further delay.

11. It has been prayed in the application that the principles of natural justice and equity demand that the application be allowed, as no prejudice would be caused to the non-applicants/respondents. Therefore, it has been prayed that the delay of 90 days in filing the present appeal may be condoned.

12. The said application has been vehemently opposed by respondent No. 1 by filing reply to the aforesaid application, wherein preliminary objections with regard to maintainability, res judicata, delay, sufficient cause, and lack of due diligence have been raised. On merits, all the averments made in the application have been categorically refuted and denied.

13. It has been contended that there is a delay of seven years in filing the appeal and the applicant deliberately spent five

High Court of H.P.

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years for leading evidence on the point of condonation of delay from 2019 to January 2024 in order to delay the execution of the judgment and decree dated 15.09.2018, wherein no legal rights of the applicant were involved.

14. It has further been stated in the reply that the applicant and his counsel deliberately and wrongly filed Civil Revision Petition No. 205 of 2024 against the order dated 16.07.2024 in order to prolong the litigation as long as possible by seeking wrong remedies.

15. It has also been stated that the applicant is well-educated and well aware of the intricacies of law. He is a chronic litigant and well-versed in concocting false stories, and that his son is an advocate.

16. Therefore, it has been prayed that the application, being devoid of any merit, deserves to be rejected, as the applicant is dragging the replying respondent, who is an ailing lady over 82 years of age, into prolonged, expensive, and unwarranted litigation, causing serious prejudice to her.

17. The plaintiffs/respondents No. 1 and 2, namely Ms. Kiran Aggarwal and Sh. Manoj Bansal, filed a suit for declaration in the Court of learned Senior Civil Judge, Kinnaur at Reckong Peo, District Kinnaur, H.P., on 29.12.2012.

High Court of H.P.

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18. As per the case set up by the plaintiffs, defendants No. 1 to 3 had submitted a house plan to build two-storey structure with CGI sheets on Khasra Nos. 74, 75, 76, 84, 85, and 86, situated in Kasba Bazaar, Rampur, for sanction and approval under the Himachal Pradesh Municipal Act and the H.P. Town and Country Planning Act. The house plan was sanctioned and approved by defendant No. 4 under the H.P. Municipal Act vide letter dated 08.11.2005, subject to the terms and conditions mentioned therein.

19. As per plaintiffs/non-applicants, defendants No. 1 to 3 have raised RCC roof on the second storey in violation and deviation of the sanctioned house plan and sanction letter dated 08.11.2005. Proceedings in that regard were recorded by defendants No. 4 to 6 on 28.07.2010, and an order was passed granting NOC for electricity and water connections for the first floor, subject to the conditions therein. Defendants No. 1 and 2 submitted an affidavit for laying a CGI sheet roof and deposited the composition fee.

20. As per the plaintiffs' case, defendants No. 1 to 3 failed to lay the CGI sheet roof on the second storey pursuant to the order dated 28.07.2010 of defendant No. 4. Defendants No. 1 to 3 illegally raised RCC pillars and roofs for a third storey, fourth

High Court of H.P.

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storey, and fifth storey in the months of September 2011, October 2011, and February 2012, despite notice dated 19.09.2011 under Section 211 of the H.P. Municipal Act which was served upon defendant No. 2 requiring them to stop the unauthorized construction.

21. According to the plaintiffs, defendants No. 1 to 3 are chronic law violators who do not believe in the rule of law. The suit was instituted by the plaintiffs/non-applicants for the grant of the following reliefs:

> *"(a) A decree for declaration that the defendants No. 1 to 3 have raised R.C.C. Roof second storey in violation and deviation of sanctioned house plan, sanction letter NO. 1955 dated 08.11.2005 with the consequential relief to lay C.G.I. Sheet roof of second storey in conformity with sanctioned house plan, sanction letter dated 08.11.2005, order dated 28.07.2010.*
>
> *(b) A decree for declaration that the defendants No.1 to 3 have illegally raised R.C.C. Pillars and Roof of 3rd storey, 4th storey, 5th storey in Khasra Nos. 74, 75 and 76 and brick wall in Khasra No. 76 without having the set back towards residential house of the plaintiff standing partly in Khasra No. 77, in Kasba Bazar Rampur Building Bye-Laws, defendant No. (4) order dated 28.07.2010, Notice dated 19.09.2011 under Section 211 of H.P. Municipal Act with consequential relief to demolish the same or to alter as to leave the set backs towards residential house of the plaintiffs standing partly in Khasra No. 77 and that the defendants No. 4 to 6 to act as per its orders dated 28.07.2010, Notice dated 19.09.2011 u/s 211 of H.P. Municipal Act, sanctioned House Plan, sanction letter No. 1955 dated 08.11.2005."*

22. The suit filed by the plaintiffs was contested by the defendants by filing separate written statements, one by defendants No. 1 to 3, and another by defendants No. 4 and 5.

High Court of H.P.

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The defence of defendant No. 6 was struck off vide order dated 15.07.2014.

23. The learned trial Court had framed the issues on 18.11.2015 and thereafter on 19.08.2016 in the following manner:

> "1. Whether the plaintiff is entitled for decree of declaration that the defendants No. 1 to 3 have illegally constructed third and forth storey of their house without leaving set backs towards the house of plaintiff, as required by law?.....O.P.P.
>
> 2. If issue No.1 is proved in affirmative, whether the plaintiff by way of consequential relief is entitled for decree of demolition/alteration of brick wall of third and forth storey of defendants house towards the residential house of plaintiff, as to leave the specified set backs, as alleged?.....O.P.P.
>
> 3. Whether suit of the plaintiff is not maintainable, as alleged?.....O.P.P.
>
> 4. Whether plaintiff has no cause of action to file the present suit, as alleged?.....O.P.D.
>
> 5. Whether suit is bad for non-joinder and mis-joinder of necessary parties?.....O.P.D.
>
> 6. Whether this court has no jurisdiction to hear and decide the present suit, as barred under H.P. Municipal Act?.....O.P.D.
>
> 7. Whether plaintiffs are estopped to file the present suit?.....O.P.D.
> 8. Whether this court has no pecuniary jurisdiction to entertain this suit, as alleged?.....O.P.D.
>
> 9. Whether this suit is not properly valued for the purpose of court fee and jurisdiction?.....O.P.D.
>
> 10. Relief."

High Court of H.P.

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24. As per judgment and decree dated 15.09.2018, the learned trial Court decreed the suit as filed by the plaintiffs/non-applicants by holding that the plaintiffs are entitled to a decree of declaration to the effect that defendants No. 1 to 3 have illegally constructed the third and fourth storeys of their house. As a consequential relief of mandatory injunction, defendant No. 4, who was seized of the matter qua illegal construction, was directed to take action against defendants No. 1 to 3 in accordance with law within a period of six months from the date of passing of the judgment and decree.

25. Feeling aggrieved, defendants No. 1 and 2 approached the Court of learned Additional District Judge, Kinnaur District at Rampur Bushahr on 26.04.2019 by filing an appeal under Section 96 of the CPC along with an application under Section 5 of the Limitation Act read with Section 151 CPC for condonation of delay in filing the appeal.

26. The First Appellate Court, vide its impugned order dated 16.07.2024, dismissed the application under Section 5 of the Limitation Act read with Section 151 CPC as filed by the applicants/defendants No. 1 and 2.

27. Feeling dissatisfied, defendants No. 1 and 2 earlier filed Civil Revision Petition No. 205 of 2024, which was dismissed

High Court of H.P.

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on 27.08.2025 by this Court by holding that the Civil Revision Petition is not maintainable. However, liberty was granted to the present applicant to pursue the remedies as are available to him in accordance with law.

28. After the dismissal of the Civil Revision Petition, defendant No. 1, Roshan Lal Chaudhary, instituted the present Regular Second Appeal along with an application under Section 5 of the Limitation Act.

29. It is contended by Mr. J.S.Poswal, learned counsel for the applicant/appellant that the impugned order as passed by the learned First Appellate Court is erroneous and liable to be quashed and set aside. He submitted that the First Appellate Court has erred by rejecting the application under Section 5 of the Limitation Act without appreciating the material placed on record. He submits that there is ample material/evidence placed on record which strengthens the case of the applicant and entitles him for condonation of delay in filing the appeal before the First Appellate Court. He further submits that after accepting the present application under Section 5 of the Limitation Act, the appeal preferred by the applicant may be allowed, and after setting aside the order passed by the learned Additional District

High Court of H.P.

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Judge, the said Court may be directed to decide the appeal on its own merits.

30. On the other hand, it is contended by Ms Kiran Aggarwal, who appeared in person before this Court, that the impugned order as passed by the learned Additional District Judge is legal, valid, and sustainable, and does not suffer from any infirmity. She submits that the application filed under Section 5 of the Limitation Act does not disclose any sufficient grounds for condonation of delay, therefore, the present application, being without any merit, deserves to be rejected.

31. I have heard the learned counsel for the parties and gone through the case file.

32. The applicant, in the application filed under Section 5 of the Limitation Act, has averred that after the passing of the impugned order by learned Additional District Judge, Kinnaur District at Rampur Bushahr, H.P., dated 16.07.2024, Civil Revision Petition No. 205 of 2024 was filed immediately before this Court, which came to be dismissed by this Court by granting liberty to avail appropriate remedies in accordance with law. Learned counsel for the applicant submits that since liberty had been granted to the applicant to pursue the remedies as are available to him in accordance with law, therefore, after the

High Court of H.P.

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dismissal of the said Civil Revision Petition, the present appeal and application are well within the period of limitation and the delay deserves to be condoned.

33. In the application, it has been averred that the applicant was pursuing the revision petition in good faith. The applicant is not well-educated and does not know the intricacies of law. Therefore, the applicant was informed by his counsel to apply for the certified copies of the judgment and decree passed by the learned trial Court as well as the First Appellate Court, and after receiving the same, the present appeal has been filed.

34. On the other hand, the application has been vehemently resisted and opposed by respondent No. 1, Ms. Kiran Aggarwal, who submits that the applicant is bent upon dragging 82 years old lady into an uncalled-for litigation. She further submits that the suit filed by her was decreed way back on 15.09.2018, and till date, on one pretext or the other and in order to avoid the execution of decree, the applicant has been able to drag the respondent into uncalled-for litigation. She submits that the applicant openly proclaims that since the non-applicant is an old lady and will not survive anymore, he is trying to prolong the litigation in order to prejudice the rights of non-applicant.

High Court of H.P.

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35. The learned Senior Civil Judge, Kinnaur at Reckong Peo, vide its judgment and decree dated 15.09.2018, decreed the suit filed by the non-applicant by declaring that defendants No. 1 to 3 have illegally constructed the third and fourth storeys of their house, and relief of mandatory injunction was granted by directing defendant No. 4 to take appropriate action qua the illegal construction in accordance with law within a period of six months from the date of passing of the judgment.

36. The applicant had preferred a Civil Miscellaneous Petition bearing No. 85 of 2019 on 26.04.2019. It shows that though the judgment and decree was passed by the learned trial Court in the month of September, the applicant approached the learned First Appellate Court after the lapse of the period of limitation for filing the appeal. Since the appeal before the learned First Appellate Court was time-barred, the application under Section 5 of the Limitation Act came to be rejected by the learned Additional District Judge, Kinnaur at Rampur Bushahr on 16.07.2024.

37. Thereafter, the applicant preferred Civil Revision Petition No. 205 of 2024, which was dismissed on 27.08.2025, and liberty was granted to the applicant to pursue the remedies as are available to him in accordance with law. Though the said

High Court of H.P.

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order was passed on **27.08.2025**, the record shows that the appeal was filed by the applicant after a lapse of more than four months, having been filed on **20.12.2025** before this Court.

38. The certified copy of the impugned order passed by the learned Additional District Judge was applied by the applicant on 05.09.2025, prepared on 05.09.2025, and delivered on 08.09.2025. Similarly, the certified copy of the judgment and decree passed by the learned trial Court was applied on 21.08.2025, prepared on 29.08.2025, and delivered on 30.08.2025.

39. Though it has been contended by the learned counsel for the applicant that since the applicant had filed the Civil Revision Petition within the period of limitation in October 2024, the time spent during the pendency of Civil Revision Petition No. 205 of 2024 deserves to be excluded, especially in view of the provisions of Sections 2(h) and 14 of the Limitation Act, which reads as under:-

> ***"2. Definitions.—***
>
> *In this Act, unless the context otherwise requires,— (h) "good faith"— nothing shall be deemed to be done in good faith which is not done with due care and attention;*
>
> *14. Exclusion of time of proceeding bona fide in court without jurisdiction. —*
>
> *(1)In computing the period of limitation for any suit the time during which the plaintiff has been prosecuting with due*

High Court of H.P.

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diligence another civil proceeding, whether in a court of first instance or of appeal or revision, against the defendant shall be excluded, where the proceeding relates to the same matter in issue and is prosecuted in good faith in a court which, from defect of jurisdiction or other cause of a like nature, is unable to entertain it.

(2)In computing the period of limitation for any application, the time during which the applicant has been prosecuting with due diligence another civil proceeding, whether in a court of first instance or of appeal or revision, against the same party for the same relief shall be excluded, where such proceeding is prosecuted in good faith in a court which, from defect of jurisdiction or other cause of a like nature, is unable to entertain it.

(3)Notwithstanding anything contained in rule 2 of Order XXXIII of the Code of Civil Procedure, 1908 (5 of 1908), the provisions of sub-section (1) shall apply in relation to a fresh suit instituted on permission granted by the court under rule 1 of that Order where such permission is granted on the ground that the first suit must fail by reason of a defect in the jurisdiction of the court or other cause of a like nature."

40. Though this Court is in agreement with the learned counsel for the applicant that the period spent by the applicant during the pendency of Civil Revision Petition No. 205 of 2024 has to be excluded. In the present case, the facts and circumstances which emerge are that although the order was passed on 27.08.2025 by this Court, the certified copy of impugned order was applied on 05.09.2025 and delivered on 08.09.2025.

41. The record shows that the certified copy of the impugned order dated 16.07.2024 was delivered on 08.09.2025, but no plausible explanation has been given in the application as

High Court of H.P.

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to why no steps were taken by the present applicant from 08.09.2025 till 20.12.2025 for filing of the present appeal.

42. The averments made in the application are completely silent on that count. The only explanation which has come in the application is that the applicant is not well-educated and does not know the intricacies of law.

43. To this submission, it is contended by respondent No. 1 that the said fact is factually incorrect. She submits that the son of the applicant is a practicing lawyer and she has drawn the attention of this Court to the copy of the C.D.-1 form for obtaining certified copies of the PWs, the copy of the judgment and decree, documents, etc., wherein the name of the son of the applicant has been shown as Shri Shubham Chaudhary, Advocate.

44. The said fact has also been noticed by the learned First Appellate Court while dealing with the application, especially, in paragraph 16 of the impugned order. Therefore, the contention of the learned counsel for the applicant that he is a simpleton person and does not know the intricacies of the law is not believable. Once the son of the applicant is a lawyer himself, it cannot be presumed that the applicant was not aware that after obtaining the certified copy of the order passed by the First

High Court of H.P.

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Appellate Court, the Regular Second Appeal was required to be filed immediately.

45. It has been contended by respondent No. 1 that when the Civil Revision Petition was pending before this Court, there was an observation in the said proceedings that the Civil Revision Petition is not maintainable. Realizing the fact that the said petition was likely to be dismissed, the present applicant had applied for the certified copy of the judgment passed by the learned Senior Civil Judge, Kinnaur well in advance on 21.08.2025, i.e., prior to the passing of the order by this Court dated 27.08.2025 in Civil Revision Petition No. 205 of 2024.

46. This Court is in agreement with the contention raised by respondent No. 1 that the applicant has failed to show and demonstrate sufficient cause, due diligence, care and caution.

47. The contents of the application are vague and non-explanatory, it seems that the thrust of the applicant is to prolong the litigation in perpetuity, as the decree was passed in the year 2018 and the endeavour of the applicant is to drag the replying respondent/non-applicant into an uncalled-for litigation.

48. Respondent No. 1 is an old lady of more than 82 years of age, therefore, the applicant cannot be permitted to drag a senior citizen by subjecting her to multifarious litigations and

High Court of H.P.

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evade the execution of the decree which was passed way back in 2018.

49. Generally, the Courts have adopted a very liberal approach in construing the phrase 'sufficient cause' used in Section 5 of the Limitation Act, in order to condone delay to enable the Courts to do substantial justice and to apply the law in a meaningful manner that sub-serves the ends of justice. Notwithstanding the above, no matter how liberal an approach is adopted in condoning delay, the existence of sufficient cause for not filing the appeal in time is a condition precedent for exercising the discretionary power to condone the delay. The phrases 'liberal approach', 'justice-oriented approach', and 'cause for the advancement of substantial justice' cannot be employed to defeat the law of limitation so as to allow stale matters or, as a matter of fact, dead matters to be revived and reopened by taking aid of Section 5 of the Limitation Act. It must always be borne in mind, while construing sufficient cause in deciding applications under Section 5 of the Limitation Act, that on the expiry of the period of limitation prescribed for filing an appeal, a substantive right accrues in favour of the decree-holder, and this right ought not to be lightly disturbed.

High Court of H.P.

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50. The Hon'ble Apex Court has repeatedly held that even after sufficient cause has been shown by a party for not filing an appeal within time, the said party is not entitled to the condonation of delay as a matter of right, as excusing the delay is within the discretionary jurisdiction vested in the court. The Court, despite the establishment of sufficient cause, may for various reasons refuse to condone the delay, depending upon the bona fides of the party. The liberal approach in considering the sufficiency of cause for delay should not be allowed to override the substantive law of limitation. The concept of a 'liberal approach' cannot be employed to jettison the substantial law of limitation. It is a well-settled principle of law that though limitation may harshly affect a particular party, it has to be applied with all its rigour when the statute so prescribes. The court has no power to extend the period of limitation on equitable grounds. Where a case has been presented in the court beyond limitation, the applicant has to explain to the court what the sufficient cause was which means an adequate and enough reason that prevented him from approaching the court within the period of limitation. No Court would be justified in condoning such an inordinate delay by imposing any condition whatsoever, as in the present case where there is inordinate and unexplained delay.

High Court of H.P.

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51. The Hon'ble Apex Court in case titled as ***Pathapati Subba Reddy (died) by LRs and others vs. The Special Deputy Collector (LA)***, ***Special Leave Petition (Civil) No.31248 of 2018***, has laid down the parameters for condonation of delay in the following manner:

> *"12. In view of the above provision, the appeal which is preferred after the expiry of the limitation is liable to be dismissed. The use of the word 'shall' in the aforesaid provision connotes that the dismissal is mandatory subject to the exceptions. Section 3 of the Act is peremptory and had to be given effect to even though no objection regarding limitation is taken by the other side or referred to in the pleadings. In other words, it casts an obligation upon the court to dismiss an appeal which is presented beyond limitation. This is the general law of limitation. The exceptions are carved out under Sections 4 to 24 (inclusive) of the Limitation Act but we are concerned only with the exception contained in Section 5 which empowers the courts to admit an appeal even if it is preferred after the prescribed period provided the proposed appellant gives 'sufficient cause' for not preferring the appeal within the period prescribed. In other words, the courts are conferred with discretionary powers to admit an appeal even after the expiry of the prescribed period provided the proposed appellant is able to establish 'sufficient cause' for not filing it within time. The said power to condone the delay or to admit the appeal preferred after the expiry of time is discretionary in nature and may not be exercised even if sufficient cause is shown based upon host of other factors such as negligence, failure to exercise due diligence etc.*
>
> *13. It is very elementary and well understood that courts should not adopt an injustice-oriented approach in dealing with the applications for condonation of the delay in filing appeals and rather follow a pragmatic line to advance substantial justice.*
>
> *14 to 20 xx xx xx xx*
>
> *21. In Lanka Venkateswarlu vs. State of Andhra Pradesh & Ors.6, where the High Court, despite unsatisfactory explanation for the delay of 3703 days, had allowed the applications for condonation of delay, this Court held that the High Court failed to exercise its discretion in a reasonable and objective manner. High Court should have exercised the discretion in a*

High Court of H.P.

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systematic and an informed manner. The liberal approach in considering sufficiency of cause for delay should not be allowed to override substantial law of limitation. The Court observed that the concepts such as 'liberal approach', 'justice-oriented approach' and 'substantial justice' cannot be employed to jettison the substantial law of limitation.

22. xx xx xx

23. In Basawaraj and Anr. vs. Special Land Acquisition Officer 8, this Court held that the discretion to condone the delay has to be exercised judiciously based upon the facts and circumstances of each case. The expression 'sufficient cause' as occurring in Section 5 of the Limitation Act cannot be liberally interpreted if negligence, inaction or lack of bona fide is writ large. It was also observed that even though limitation may harshly affect rights of the parties but it has to be applied with all its rigour as prescribed under the statute as the courts have no choice but to apply the law as it stands and they have no power to condone the delay on equitable grounds.

24. It would be beneficial to quote paragraph 12 of the aforesaid decision which clinches the issue of the manner in which equilibrium has to be maintained between adopting liberal approach and in implementing the statute as it stands, Paragraph 12 reads as under:
"12. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The Court has no power to extend the period of limitation on equitable grounds. "A result flowing from a statutory provision is never an evil. A Court has no power to ignore that provision to relieve what it considers a distress resulting from its operation." The statutory provision may cause hardship or inconvenience to a particular party but the court has no choice but to enforce it giving full effect to the same. The legal maxim dura lex sed lex which means "the law is hard but it is the law", stands attracted in such a situation. It has consistently been held that, "inconvenience is not" a decisive factor to be considered while interpreting a statute."

52. The Hon'ble Apex Court in the aforesaid judgment has held that the applicant is required to establish sufficient cause for not filing the appeal within time. The power to condone the delay or to admit the appeal preferred after the expiry of time is

High Court H.P.

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discretionary in nature and may not be exercised even if sufficient cause is shown, based upon a host of other factors such as negligence and failure to exercise due diligence. In the present case, the case file reveals that there is sheer negligence and failure to exercise due diligence on the part of the applicant, therefore, no relief can be granted to the applicant under the attending facts and circumstances of the case.

53. In terms of Section 5 of the Limitation Act, discretion is vested in the Court to admit an appeal or an application after the expiry of the prescribed period of limitation if the appellant shows sufficient cause for not preferring the application within the prescribed period.

54. The law of limitation may harshly affect a particular party, but it has to be applied with all its rigor when the statute so prescribes, and the Courts have no power to extend the period of limitation on equitable grounds.

55. The words "sufficient cause" should be understood and applied in a reasonable, pragmatic, and practical manner, depending upon the facts and circumstances of the case. The delay should not be condoned on mere asking by the applicant.

56. The law of limitation is a substantive law, and it has definite consequences on the rights and obligations of the parties

High Court of H.P.

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to arise. These principles should be adhered to and applied appropriately. Once a valuable right has accrued in favour of one party as a result of failure of the other party to explain the delay by showing sufficient cause and expose conduct, it will be unreasonable to take away that right on the mere asking of the applicant, particularly when the delay is directly the result of negligence, default, or inaction of the party. Justice must be done to both parties equally, then alone the ends of justice can be achieved. If a party has been thoroughly negligent in pursuing its rights and remedies, it will be equally unfair to deprive the other party of a valuable right that has accrued to it in law as a result of its acting vigilantly.

57. The said exposition of law has been laid down by the Hon'ble Apex Court, in the judgment reported in ***(2010) 8 SCC 685,*** titled as ***Balwant Singh (Dead) v. Jagdish Singh & Others***, wherein it has been held as under:

> *" 26. The law of limitation is a substantive law and has definite consequences on the right and obligation of a party to arise. These principles should be adhered to and applied appropriately depending on the facts and circumstances of a given case. Once a valuable right, as accrued in favour of one party as a result of the failure of the other party to explain the delay by showing sufficient cause and its own conduct, it will be unreasonable to take away that right on the mere asking of the applicant, particularly when the delay is directly a result of negligence, default or inaction of that party. Justice must be done to both parties equally. Then alone the ends of justice can be achieved. If a party has been thoroughly negligent in implementing its rights and remedies, it will be equally unfair to*

High Court of H.P.

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deprive the other party of a valuable right that has accrued to it in law as a result of his acting vigilantly."

58. In the present case, the conduct of the applicant speaks for him. The appeal which was preferred before the First Appellate Court was also time-barred, and that came to be dismissed by the learned Additional District Judge and feeling dissatisfied, the present appeal alongwith application under Section 5 of Limitation Act for condonation of delay has been filed.

59. As observed earlier, though the Civil Revision Petition came to be dismissed on 27.08.2025, the certified copy of the impugned order passed by the Additional District Judge, Kinnaur at Rampur Bushahr dated 16.07.2024 was very much available with the applicant on 08.09.2025. Thereafter, there is no explanation as to why there is a delay in filing the appeal. As per the calculation of the Registry, there is a delay of 1 year, 5 months, and 4 days in filing the appeal. Since copy was applied after the period of limitation as such 90 days grace was not given to the applicant. Even after excluding the period from the date of filing of the Civil Revision till its dismissal on 27.08.2025 there is no valid or plausible explanation or sufficient grounds that what prevented the applicant to file the instant appeal within the period

High Court of H.P.

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of limitation. After passing of the order in Civil Revision on 27.08.2025 the certified copy of impugned order passed by learned First Appellate Court was delivered to applicant on 08.09.2025. Thereafter, there is no explanation why appeal was filed after considerable period i.e. 20.12.2025. The approach as adopted by the applicant is very casual and the same cannot be said to demonstrate due diligence and sufficient cause.

60. This Court is not convinced with the explanation and the contentions as raised in the application. Therefore, the right which has accrued to the non-applicant cannot be taken away in a routine manner.

61. Accordingly, the present application, being devoid of any merit, deserves to be rejected. Ordered accordingly.

Pending application(s), if any, shall also stands disposed of.

(Romesh Verma)
Judge

October 9, 2026
(Nisha)

High Court of H.P.

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