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**IN THE HIGH COURT OF BOMBAY AT GOA****WRIT PETITION NO.437 OF 2025(F)**

Mr Adolf Olegario Nazareth,  
Aged 78 years, Business,  
R/o. H.No.E-22, Punola,  
Uccassaim, Bardez, Goa.

...Petitioner

***Versus***

1. The Sarpanch/Secretary  
Village Panchayat of Uccassaim-Paliem-  
Punola, Office of Village Panchayat of  
Uccassaim-Paliem-Punola, Uccassaim,  
Bardez-Goa.

2. Mr Antonio Jose D'Souza  
Aged 79 years, Indian National,  
Retired, B-3, Trionora Apartments,  
Above Navtara Restaurant,  
Panaji Market, Panaji, Goa.

...Respondents

Mr J.A. Lobo, Advocate for the Petitioner.  
Mr V.A. Lawande with Mr Atul Sadre, Advocates for the  
Respondents.

**CORAM : NIVEDITA P. MEHTA, J.****Reserved on : 4<sup>th</sup> April 2025**  
**Pronounced on : 21<sup>st</sup> April 2025****JUDGMENT :**

1. Rule. Rule is made returnable forthwith with the consent of  
and at the request of the learned counsel for the parties.

2. The instant Writ Petition invoking the jurisdiction of this Court under Article 226 and Article 227 of the Constitution of India, 1950 has been filed praying for directions from this court to set aside and quash the impugned order dated 30.12.2024 passed by the District Court, Panaji in Civil Miscellaneous Application No. 152/2024. By way of the Impugned Order, the application filed by the petitioner under Section 5 of the Limitation Act (hereinafter referred to as 'the Act') was dismissed. The petitioner had filed an application seeking condonation of delay of 73 days in filing a Revision Application under Section 201B of the Goa Panchayat Raj Act, 1994.

3. In a nutshell, the origin of the dispute can be traced back to a complaint filed by respondent no.2 against the petitioner before the Deputy Director of Panchayats, submitting therein that the petitioner had undertaken illegal construction on land bearing survey no. 20/1, 20/3 and 20/5 of the Village of Uccassaim, Bardez, Goa. Vide Judgment and Order dated 12.10.2021, the Deputy Director was pleased to allow the complaint. Subsequently, the petitioner preferred an Appeal bearing no. ADP-I/Ucca-Pali-Pun/P.A. 358/2021 before the Additional Director of Panchayat- I, Panaji, Goa, which was dismissed by the Additional Director vide Judgement and Order dated 15.03.2024. Thereafter, the petitioner filed a Revision Petition under section 201B of the Goa Panchayat Raj Act on 23.08.2024. Along with the Revision Petition, the petitioner filed an application seeking condonation of delay submitting that the delay of 73 days was on

account of sufficient cause. The District Court vide the Impugned Order dismissed the application for condonation of delay. Aggrieved by the Impugned Order, the petitioner has sought relief from this court.

4. In support of the stance of the petitioner, Mr. J.A. Lobo, learned counsel made the following submissions:

4.1. The Impugned Order has been passed based on inferences drawn from the merits of the dispute between the parties, without due consideration of the explanation offered for the delay in filing the Revision Petition. The District Court has been impressed by the history of the dispute rather than being concerned with the delay.

4.2. To illustrate that the mind of the court was prejudiced, it was submitted that the Impugned Order reflects an observation that the delay caused on account of the unavailability of his counsel is not sufficient, as other counsel could have been engaged in the absence of the petitioner's counsel. It is not reasonable to expect the litigant to seek representation from another counsel, whilst the dispute is ongoing.

4.3. The imposition of cost of Rs.25,000/- vide the Impugned Order also illustrates the prejudice that the court proceeded with.

4.4. Moreover, the delay is of a short quantum, of only 73 days and not inordinate in quantum like half a year or a year.

4.5. The reply to The Application filed by respondent no.2 comprises solely of denials of the submissions made by the petitioner without any reasoning or submission offered to substantiate the position adopted by them. The contents of the reply are not reflected in the body of the Impugned Order.

4.6. When seized with an application for condonation of delay, a court should narrow the scope of their attention to the factum of delay rather than the merits of the dispute. The only pressing consideration in such an application is whether a sufficient cause is disclosed in the explanation of the delay.

4.7. The Judgment and Order, against which the revision was sought, was passed on 15.03.2024. The petitioner, on the very same day had applied for a certified copy of the same, but it was only produced to them on 29.04.2024. Subsequently, on the 02.05.2024 the petitioner visited the chamber of the learned counsel that had been engaged by him, during which the counsel advised the petitioner that given that court was in vacation for the month of May and that the period of limitation would expire on 29.05.2024, they should reconvene in the last week of May. The petitioner could not make himself available in the last week of May because he had to travel

abroad to visit his family and only returned to India on 20.06.2024. On 26.06.2024, the petitioner met his counsel and upon being informed by the counsel that the petitioner would need to produce a certified copy of the Judgment and Order dated 15.03.2024, told the counsel that he had misplaced the copy. Consequently, another certified copy had to be applied for, which was made available to the petitioner on 16.08.2024. The delay caused in the intervening period between the petitioner's return from his travel abroad and his meeting with the counsel is attributed to the recovery of the petitioner from jet lag. Ultimately, on 23.08.2024, the appeal came to be filed.

4.8. On account of the heavy rainfall in the month of July and the petitioner being elderly at 78 years of age, his movement was severely restricted for the entirety of the month, further contributing to the delay.

4.9. The travels of the petitioner have been termed as vacation in the Impugned Order. A visit to one's family is not a holiday but rather a bona fide reason that may cause a delay. The use of the term holiday is illustrative of the prejudice borne in the mind of the court.

4.10. In exercise of judicial discretion while considering an application under section 5 of the Act, courts should adopt a pragmatic approach by distinguishing between inordinate delays and

relatively short delays, while keeping in mind that advancing substantial justice is of paramount importance.

4.11. The rights of the petitioner would be at the peril of being impaired and the cause of justice defeated if a chance is not given to the matter to be heard on merits.

4.12. In support of his arguments, the learned counsel has placed reliance on the judgments rendered in *Inder Singh V/s. State of Madhya Pradesh*<sup>1</sup> and *Raheem Shah & Anr. V/s. Govind Singh & ors.*<sup>2</sup>

5. Per Contra, Mr. V.A. Lawande, the learned counsel appearing on behalf of respondent no.2, made the following submissions:

5.1. The filing of the Revision Petition is a mere dilatory tactic that has been adopted by the petitioner. The order, against which a revision is sought, has been partly executed, in furtherance of which three out of a total of five structures have already been demolished.

5.2. The instant Writ Petition suffers from delays and laches, given that the execution of the order is underway.

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<sup>1</sup> 2025 SCC OnLine SC 600

<sup>2</sup> Civil Appeal No.4628 of 2023 dated 24.07.2023

5.3. Had the petitioner acted promptly bearing in mind the prescribed period of limitation without seeking shelter under the purported reasons of rainfall, etc. the order of demolition could have been stayed. Rather, the petitioner preferred to sleep on their rights and acted belatedly.

5.4. If the instant Petition is allowed, the execution of the demolition order will stand stayed and would relegate respondent no.2 back to re-agitating their rights before a court of law.

5.5. The number of days that elapse in delay cannot be the primary consideration borne in the mind of the court while deciding an application under section 5 of the Act, whereas each singular day of delay is material. Therefore, no defence can be sought under the factum that the delay is short in nature.

5.6 In support of his arguments, the learned counsel has placed reliance on the judgments rendered in *Union of India V/s. Jahangir Byramji Jeejeebhoy (D) through his LR<sup>3</sup>, Pathapati Subba Reddy (died) by LRs and Ors. V/s. Special Deputy Collector (LA)<sup>4</sup> and Garment Craft V/s. Prakash Chand Goe<sup>5</sup>.*

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<sup>3</sup> 2024 SCC OnLine SC 489

<sup>4</sup> 2024 SCC OnLine SC 513

<sup>5</sup> (2022) 4 SCC 181

6. Having heard the learned counsels appearing on behalf of the petitioner as well the learned counsel on behalf of respondent no.2 and having perused the material placed on record, the rival contentions now fall for my determination.

7. The cause that is sought to be agitated by way of the instant Writ Petition is supported, largely, on the submission that the District Court rendered the decision in the Impugned Order while bearing in mind a bias stemming from the history of the dispute and thus was influenced by the merits of the case, whereas what was incumbent upon the Court in light of the settled position of the law, was to restrict judicial scrutiny and determination to whether the period of delay could be explained by what is sufficient cause construed within the meaning of section 5 of the Act.

8. Essentially, in light of this, what falls for consideration of this court is whether the District Court took a view that falls short in giving due credence to the cause behind the delay and instead formulated its opinion based on the merits of the dispute.

9. At the outset, it is pertinent to understand the value that may be placed on the consideration of the quantum of delay. In *Mool Chandra V/s. Union of India & Anr.*<sup>6</sup>, a Division Bench of the

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<sup>6</sup> (2025) 1 SCC 625

Hon'ble Supreme Court has summarised the principle as extracted hereunder for convenience:

*“20. ...It is not the length of delay that would be required to be considered while examining the plea for condonation of delay, it is the cause for delay which has been propounded will have to be examined. If the cause for delay would fall within the four corners of “sufficient cause”, irrespective of the length of delay same deserves to be condoned. However, if the cause shown is insufficient, irrespective of the period of delay, same would not be condoned.”*

**10.** The ruling extracted in the preceding paragraph makes it abundantly clear that, while the court may draw an inference from the length of the period of delay that is sought to be condoned, primacy will still be given to the consideration of sufficiency of the cause behind the delay. It is trite law that under no circumstances can condonation of delay be sought as a matter of right and also that no strait-jacketed formula may ever be prescribed in this regard. Therefore, while considering such an application, a Court of law can only come to a conclusion after having evaluated each individual reason that accounts for the period of delay.

**11.** In this light, to demonstrate that there is, in fact, a sufficient cause for the delay caused within the meaning of Section 5 of the Act, the learned counsel has submitted that there was delay on account of the certified copy being produced belatedly after passing of the Judgment and Order dated 15.03.2023, because the court was in

vacation for the month of May, due to the petitioner's travels and subsequent recovery from jet lag, due to restriction in movement on account of heavy rainfall in the month of July and finally having to seek a second certified copy of the Judgement and Order dated 15.03.2023.

**12.** In my considered view, relief under section 5 of the Act is only available to parties that have, out of events or otherwise, circumstances been restrained from agitating their cause in time as prescribed by the applicable law. To travel abroad, notwithstanding whether it may be for reasons of vacation or to visit family or whether synonymous construction of the terms is symptomatic of prejudice, is a matter of conscious decision making that would necessitate, inter alia, booking of flights and grant of visa. If one chooses to act on one of two possible courses of action as a matter of deliberate decision making, it cannot be stated to be difficulty in approaching the Courts. However, the fact that the certified copy of the order that was sought to be challenged was misplaced only to be found subsequently, in lieu of which a second certified copy had to be sought causing delay, detracts from the case of the petitioner. Both certified copies were then placed as proof with the application to demonstrate that delay was caused on account of having to seek a second copy.

**13.** If it were only a matter of a visit to one's family or the misplacement of the certified copy, or even if both caused the delay, I

would be in consonance with the submission that the same constitutes 'sufficient cause', but what derogates the stance of the petitioner is that at least five days elapsed in the course of the petitioner's recovery from jet lag. It is principally true that the relaxation from the timelines as prescribed by the law of limitation cannot be granted to those who sleep on their rights. Or as the District Judge, rightly said in the Impugned Order, "This is not the conduct of a prudent man".

**14.** I am sympathetic to the difficulty that is cast on the petitioner on account of restricted movement due to hostile weather and old age, but I cannot fathom a scenario where that would preclude the counsel from acting on his behalf. Insofar as vacation of the Court as a contributing factor to the delay is concerned, the petitioner only came to file the appeal approximately three months after the vacation concluded without much in the way of a cogent explanation that may account for 'sufficient cause'. This further disparages the stance of the petitioner.

**15.** In view of the principle that has been enunciated by the Hon'ble Supreme Court in a myriad of pronouncements that we shall refrain from delving into deeply for the sake brevity, is that generally, a liberal approach in construing the term 'sufficient cause' may be adopted to enable courts to do substantial justice and to apply the law in a manner that is subservient rather than subversive of the cause of justice. In so far, as reliance placed on this principle by the learned

counsel for the petitioner is concerned, we have no objection in accepting his submissions.

**16.** However, it must be borne in mind while construing 'sufficient cause' in the context of Section 5 of the Act that a substantive right accrues at the end of the litigation process in favour of the decree-holder, which ought not to be disturbed lightly. In the instant Writ Petition, interference from this court has been sought after the conclusion of multiple stages of litigation, wherein the first court of appeal, i.e. the Additional Director of Panchayat at Panaji Goa, was pleased to rule in favour of respondent no.2. After all the stages of judicial scrutiny that the order has been validated by, the petitioner sought to agitate their cause in revisional jurisdiction.

**17.** This may not be permitted because the law of limitation is rooted in public policy and the spirit of public policy would dictate that legal rights ought to be enforced in a court of law within a time frame and that litigation cannot be permitted to be suspended in a state of endless continuity. An argument for a liberal construction of 'sufficient cause' cannot be used to jettison the law of limitation itself.

**18.** In so far as the two rulings relied upon by the petitioner are concerned, it is my opinion that both are distinguishable on facts. The legal principles contemplated in the ratios of the judgments are not attracted because the question of liberal approach as opposed to a

hyper-technical approach is only attracted in the narrow aperture of appreciation of the circumstances causing the delay and not when the application is bereft of factors that may be deemed ‘sufficient cause’.

**19.** In *Pathapati Subba Reddy (died) by LRs and Ors.* (supra), a Division Bench of the Hon’ble Supreme Court has summarised the law concerning section 5 of The Act as extracted hereunder for convenience.

*“26. On a harmonious consideration of the provisions of the law, as aforesaid, and the law laid down by this Court, it is evident that:*

*(i) Law of limitation is based upon public policy that there should be an end to litigation by forfeiting the right to remedy rather than the right itself;*

*(ii) A right or the remedy that has not been exercised or availed of for a long time must come to an end or cease to exist after a fixed period of time;*

*(iii) The provisions of the Limitation Act have to be construed differently, such as Section 3 has to be construed in a strict sense whereas Section 5 has to be construed liberally;*

*(iv) In order to advance substantial justice, though liberal approach, justice-oriented approach or cause of substantial justice may be kept in mind but the same cannot be used to defeat the substantial law of limitation contained in Section 3 of the Limitation Act;*

*(v) Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power is discretionary in nature and may not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence;*

*(vi) Merely some persons obtained relief in similar matter, it does not mean that others are also entitled to the same benefit if the court is not satisfied with the cause shown for the delay in filing the appeal;*  
*(vii) Merits of the case are not required to be considered in condoning the delay; and*  
*(viii) Delay condonation application has to be decided on the parameters laid down for condoning the delay and condoning the delay for the reason that the conditions have been imposed, tantamount to disregarding the statutory provision.”*

**20.** The factual matrix of the instant Writ Petition is covered squarely by the ratio in the judgment extracted in the preceding paragraph, specifically sub-paragraph (v). In view of this, as well as the aforesaid discussion, I find that there is no infirmity in the Impugned Order and that a liberal interpretation of ‘sufficient cause’ cannot be harnessed to counteract a want of diligence on the part of the petitioner.

**21.** In light of the aforesaid discussions, the Writ Petition is dismissed with no order as to costs.

**NIVEDITA P. MEHTA, J.**