IN THE DEBTS RECOVERY APPELLATE TRIBUNAL AT KOLKATA

HON'BLE MR. JUSTICE ANIL KUMAR SRIVASTAVA
CHAIRPERSON

Appeal Diary No. 907 of 2025
(Arising out of S.A. 355 of 2019 in DRT-II, Hyderabad)

Order No. 12
20.05.2026

Karur Vysya Bank Limited
… Appellant
-Vs-
M/s. Tanvi Enterprises & Another
… Respondents

Ms. Shreya Bhatia, Learned Counsel for Appellant

Ms. Shristi Bansal (Virtual), Learned Counsel for Respondent No. 1

THE APPELLATE TRIBUNAL:

I.A. 529 of 2025

1. Application, under Section 5 of the Limitation Act, for condonation of 194 days delay in filing the appeal against order dated 29.1.2025 passed by the Learned DRT-II, Hyderabad in S.A. 355 of 2019 (M/s. Tanvi Enterprises -vs- Karur Vysya Bank Limited) whereby S.A. was allowed.

2. Appeal was filed on 11.8.2025 with an application for condonation of delay. Learned Counsel for Appellant would submit that the delay was not intentional rather beyond the control of the Appellant. Concerned officer, who was dealing with the matter, retired on 31st March, 2025. There was relocation of the Recovery Department of the Bank. Thereafter when the Bank came to know about the impugned order, application for certified copy was moved on 28th April, 2025. On receipt of the certified copy, instruction was sought for from the higher authorities and the

Learned Counsel was consulted for filing the appeal and the draft memorandum was prepared and the appeal was filed.

3. Per contra, Learned Counsel for Respondent would submit that no sufficient cause could be shown by the Appellant. The grounds shown by the Appellant are simply lapse of the Bank for which they cannot take advantage. No special steps could be given to the Appellant as far as limitation for filing the appeal is concerned.

4. Admittedly, the appeal is filed within 194 days delay. Law is well settled by the Hon'ble Apex Court in ***Pathapati Subba Reddy (Died) -vs- The Special Deputy Collector (LA) [2024 LiveLaw (SC) 288]*** has referred to ***Collector, Land Acquisition, Anantnag and Others -vs- Katiji & Others [(1987) 2 SCC 107]*** wherein it was held that:

> *"x x x x ordinarily a litigant does not stand to benefit by lodging an appeal late; it is not necessary to explain every day's delay in filing the appeal; and since sometimes refusal to condone delay may result in throwing out a meritorious matter, it is necessary in the interest of justice that cause of substantial justice should be allowed to prevail upon technical considerations and if the delay is not deliberate, it ought to be condoned. Notwithstanding the above, howsoever, liberal approach is adopted in condoning the delay, 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 matter to be revived and re-opened by taking aid of Section 5 of the Limitation Act."*

5. It is further held that it must be borne in mind, while construing 'sufficient cause' in deciding application under Section 5 of the Limitation Act, that on the expiry of the period of limitation prescribed for filing an appeal, substantive right in favour of the decree-holder accrues and this right ought not to be lightly disturbed.

6. Hon'ble Apex Court has also referred to ***Basawaraj and Another -vs- Special Land Acquisition Officer (2013) 14 SCC 81*** wherein it was held in paragraph 23 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."

7. Hon'ble Apex Court also placed reliance on paragraphs 12 and 15 of the ***Basawaraj*** (supra) which 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 per 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."

"15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. <u>No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever.</u> The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature."(emphasis supplied)."

8. In paragraph 26 of the ***Pathapati Subba Reddy*** (supra) Hon'ble Apex Court held that

"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 condoning the delay for the reason that the conditions have been imposed, tantamounts to disregarding the statutory provision.

(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, tantamounts to disregarding the statutory provision."

9. It was further held that if sufficient cause is not shown, delay cannot be condoned. Further condonation of delay merely for the reason that the claimants have been deprived of the interest for the delay while holding that they had made out a case for condoning the delay is not a correct approach.

10. In ***K.B. Lal (Krishna Bahadur Lal) -vs- Gyanendra Pratap & Others [2024 SCC OnLine SC 508]*** Hon'ble Apex Court in judgment dated 8.4.2024 held that:

"10. There is no gainsaying the fact that the discretionary power of a court to condone delay must be exercised judiciously and it is not to be exercised in cases where there is gross negligence and/or want of due diligence on part of the litigant (See Majjfi Sannomine @ Sanyasiree Reddy Sridevi & Ors. (2021) 18 SCC 384). The discretion is also not supposed to be exercised in the absence of any reasonable, satisfactory or appropriate explanation for the delay (See PK. Ramachandranu. State of Kerala and Anr., (1997) 7 SCC 556). Thus, it is apparent that the words sufficient cause' in Section 5 of the Limitation Act can only be given a liberal construction, when no negligence, nor inaction, nor want of bona fide is imputable to the litigant (See ***Basawaraj and Another -vs- Special Land Acquisition Officer, (2013) 14 SCC 81).*** *The principles which are to be kept in mind for condonation of delay were succinctly summarised by this Court in* ***Esha Bhattacharjee -vs- Managing Committee of Raghunathpur Nafar Academy & Others (2013) 12 SCC 649****, and are reproduced as under:*

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

10. Sufficient cause has to be shown by the Appellant for condonation of the delay in filing the appeal.

11. In the present case, so far the grounds taken by the Appellant are concerned, officer of the Bank retired on 31st March, 2025 and there was relocation of the Recovery Department of the Bank. When the Appellant came to know about the impugned order, application for certified copy was moved on 28th April, 2025. On receipt of the certified copy, instruction was sought for from the higher authorities and the Learned Counsel was consulted for filing the appeal and the draft memorandum was prepared and the appeal was filed. All these grounds at best could be legal excuse but could not be sufficient cause for condonation of delay.

12. Law is very well settled by the Hon'ble Apex Court that State or its instrumentals has to be taken on similar footing that of private litigant. No special status could be given to them.

13. In the present case the Appellants should have been vigilant enough to pursue their case. The judgment was delivered in presence of the Learned Counsel for Bank. Bank should have taken care of the impugned order well within the time but they did not take any step and simply slept over the matter. There is nothing on record to show that action, if any, has been taken by the Bank against the officer who failed to prefer the appeal within time. Further, the Bank was required to protect the rights of the Bank by preferring the appeal within time. Even if the Recovery Department of the Bank was relocated, when it was done could not be established. Even after receiving the copy on

23rd June, 2025, more than a month till 25th July, 2025 was taken for preparation of the draft in the matter which is already over delayed. Such an action on the part of the Bank could not be accepted as a sufficient ground for condonation of delay in preferring the appeal.

14. Accordingly, we do not find any ground showing sufficient cause for condonation of delay in filing the appeal. I.A. 529 of 2025 lacks merits and accordingly is dismissed.

Subsequently, appeal is also dismissed as time barred.

File be consigned to Record room.

Copy of the Judgment/Final Order be uploaded in the Tribunal's Website.

Order pronounced in open Court.

(Anil Kumar Srivastava,J)
Chairperson

Dated: 20th May, 2026
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