

Judgment reserved on: 10th July, 2026

Judgment delivered on: 15th July, 2026

Appeal No. 127 of 2025-DRAT-Kolkata

IN THE DEBTS RECOVERY APPELLATE TRIBUNAL AT KOLKATA

Appeal No. 127 of 2025

(Arising out of I.A. 625 of 2024 in Diary No. 728 of 2024 (M.A.) in DRT, Guwahati)

HON'BLE MR. JUSTICE ANIL KUMAR SRIVASTAVA
CHAIRPERSON

Hoipi Haokip, W/o Thangchon Haokip, resident of Haokip veng, P.O. & P.S. Porompat, District -: Imphal East, Manipur, P.I.N. 795 005 (postal address: Keithelmanbi, Kangpokpi, P.O. Kalapahar, Manipur, P.I.N. 795 122).

... Appellant

-Versus-

North Eastern Development Finance Corporation Limited (NEDFi), NEDFi House, Ganeshguri, G.S. Road, Disput, Guwahati – 6, District – Kamrup, Assam.

... Respondent

Counsel for Appellants

... Mr. N. Mahendra Singh

Counsel for Respondents

... Ms. Aparajita Rao
Ms. Nabanita Dutta

JUDGMENT : 15th July, 2026

THE APPELLATE TRIBUNAL:

1. Instant appeal is preferred against judgment and order dated 11.6.2025 passed by the Learned DRT, Guwahati in EDRT Dy. No. 728 of 2024 (M.A.) [Hoipi Haokip -vs- North Eastern Development Finance Corporation Limited (NEDFi)], in I.A. 624 of 2024 whereby Learned DRT dismissed I.A. 625 of 2014 under Section 5 of the Limitation Act. Subsequently, EDRT Dy. No. 728 of 2024 (M.A.) was also dismissed as time barred.

2. As per pleadings of the parties, O.A. 316 of 2018 was decided ex parte against the Defendants therein on 8.9.2022. A Misc. Application, being EDRT Dy. No. 728 of 2024 (M.A.) was filed by the Appellant for setting aside the ex parte judgment and order dated 8.9.2022 in O.A. 316 of 2018 on 19.9.2024 along with I.A. 625 of 2024

under Section 5 of the Limitation Act for condonation of delay of 36 days under Section 5 of the Limitation Act in preferring an application under Order 9 Rule 13 of the C.P.C.

3. It is stated that no summons of the O.A. proceedings was served upon the Appellant. Appellant came to know about the impugned judgment in July, 2024 through Mr. M.S. Lupho, Advocate, Kangpokpi. He informed that some judgment is passed against the Appellant. Then Appellant contacted Learned Counsel Mr. N. Mahindra Singh. On inspection of the records on 8.7.2024 Appellant came to know about the ex parte judgment. Application for certified copy was moved on the same day. It also transpires that vakalatnama on behalf of Defendants No. 2,4,5,6,7 and 8 appointing (1) N.U. Singh (2) N. Thoiba Singh and (3) M.K. Dutta was also filed. No summons was ever served upon the Appellant. Certified copy was obtained on 15.7.2024. Application for setting aside the ex parte judgment was filed on 19.9.2024. Appellant calculated the delay of 36 days after deducting thirty days limitation for filing the application and seven days in obtaining the copy. It is stated that due to unrest in the locality of the Appellant delay was caused which is liable to be condoned.

4. Opposition to the application was filed by the Bank stating that Notices/Summons were duly served upon the Appellant on 11.4.2023. Salary of the Appellant was attached. No ground for condonation of delay is made out.

5. Learned DRT recorded a finding that on 14.11.2018 Counsel appeared for the Defendants in the O.A.

proceedings and filed vakalatnama but on the subsequent dates, the Counsel had failed to appear before the DRT and judgment was delivered on 8.9.2022. It is further observed that the Appellant appeared in the O.A. proceedings had filed written statement. No fresh ground could be made out for condonation of delay in moving the application under Order 9 Rule 13 of the C.P.C. Accordingly, application for condonation of delay was dismissed.

6. I have heard the Learned Counsel for the parties and perused the record.

7. Learned Counsel for Appellant would submit that the delay was duly explained by the Appellant. Delay was only for 36 days which was caused due to the fact that when the Appellant came to know about the impugned order, she contacted her Counsel and after obtaining certified copy she preferred the application for condonation of delay along with an application for setting aside the ex parte judgment. It is further submitted that the summons in O.A. proceedings were not served upon the Appellant. There was war like condition in the State of Manipur so the Appellant could not contact her Counsel. Accordingly, Appellant successfully showed sufficient cause for condonation of delay.

8. Per contra, Learned Counsel for Respondent Bank would submit that the summons was duly served upon the Appellant through speed post. It is further submitted that even during the Recovery Proceedings, Appellant herself has received the order dated 11.4.2023 from the Recovery Officer which shows that Appellant had full knowledge of the

impugned judgment on 12.4.2023. It negates the ground taken by Appellant that in 2024 Appellant came to know about the ex parte judgment. Admittedly, the O.A. filed under Section 19 of the Recovery of Debts and Bankruptcy Act, 1993 was decided ex parte against the Appellant along with other Defendants.

9. Appellant preferred an application Order 9 Rule 13 C.P.C. along with an application for condonation of delay of 36 days counted from the date of knowledge, i.e., July 2024. Thereafter application for certified copy was applied for on 8.7.2024 and the certified copy was made ready on 15.7.2024 and the Application was filed on 19.9.2024. Learned Counsel for Appellant would submit that no notices were served upon the Appellant in the O.A. proceedings hence when the Appellant came to know about the ex parte order she made a search about the records and filed the application.

10. Law is very well settled that in order to condone the delay, Appellant is required to prove sufficient cause for condonation of delay, as has been held by the Hon'ble Apex Court in a recent judgment in the matter of ***Sheo Raj Singh (Deceased) through Legal Representatives & Others - vs- Union of India & Another [(2023) 10 SCC 531]*** in paragraphs 30 and 32 as under:

"30. X x x condonation of delay being a discretionary power available to courts, exercise of discretion must necessarily depend upon the sufficiency of the cause shown and the degree of acceptability of the explanation, the length of delay being immaterial."

"32. x x x At this stage, we cannot but lament that it is only excuses, and not explanations, that are more often accepted for condonation of long delays to safeguard public interest from those hidden forces whose sole agenda is to ensure that a meritorious claim does not reach the higher courts for adjudication."

11. The Hon'ble Apex Court in ***State (NCT of Delhi) -vs- Ahmed Jaan [(2008) 14 SCC 582]***, held that proof of sufficient cause is a condition precedent. In para 10 it is held that:

"There is no general principle saving the party from all mistakes of its Counsel could be laid. The expression 'sufficient cause' must receive a liberal construction so as to advance substantial justice and generally delays in preferring the appeals are required to be condoned in the interest of justice where no gross negligence or deliberate inaction or lack of bona fides is imputable to the party seeking condonation of delay."

12. The Hon'ble Apex Court in ***S. Ganesharaju (Dead) through LRs -vs- Narasamma (Dead) through LRs [(2013) 11 SCC 341]*** in para 12 it was held that:

"Unless the Respondents are able to show mala fides in not approaching the Court within the period of limitation, generally as a normal rule, delay should be condoned. The trend of the Courts while dealing with the matter with regard to condonation of delay has tilted more towards condoning delay and directing the parties to contest the matter on merits, meaning thereby that such technicalities have been given a go-by."

It was further held in para 14 that:

"Since sufficient cause has not been defined, thus, the Courts are left to exercise a discretion to come to the conclusion whether circumstances exist establishing sufficient cause. The only guiding principle to be seen is whether a party has acted with reasonable diligence and had not been negligent and callous in prosecution of the matter."

13. It has been held by the Hon'ble Apex Court that in an application under Section 5 of the Limitation Act sufficient cause has to be shown for condonation of delay. There is

difference between excuse and sufficient cause, as has been held by the Hon'ble Apex Court.

14. 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 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 matters to be revived and re-opened by taking aid of Section 5 of the Limitation Act."

15. 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.

16. 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."

17. 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. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. 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)."

18. 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."*

19. 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.

20. In *K.B. Lal (Krishna Bahadur Lal) -vs- Gyanendra Pratap & Others* [2024 SCC OnLine Hon'ble Supreme Court 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 Majji 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 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. Now, we have to see as to whether Appellant successfully has been able to prove any sufficient cause in its favour for condonation of delay.

22. In the O.A. proceedings a vakalatnama of N.V. Singh, N.K. Dutta and N. Trilok Singh was filed on behalf of the Defendants No. 2, 4, 5, 6, 7 and 8. Appellant herein is the Defendant No. 6 in the O.A. proceedings. Filing of vakalatnama on behalf of the Appellant by Advocates itself

proves that the Appellant was duly represented in the O.A. proceedings. Thereafter, as per the judgment of the O.A. proceedings Defendants were absent pending proceedings and the O.A. was decided ex parte. Even thereafter no steps were taken by the Appellant and filed the application for setting aside the ex parte decree on 19.9.2024. A ground is taken that one Advocate, viz., M.S. Lupho, informed the Appellant about the case from one of his clients. When the Appellant was duly represented in the O.A. proceedings, and did not opt for contesting the same, it itself shows that voluntarily Appellant did not appear in the proceedings. Further, Appellant failed to show as to why and how Mr. Lupho, Advocate, came to know about the ex parte judgment and informed the Appellant about the same after about two years of passing of the ex parte judgment. Even thereafter in the Recovery Proceedings Appellant herself received copies of the order dated 11.4.2023 from the Recovery Officer on 12.4.2023. It means that on 12.4.2023 she got the knowledge of the judgment passed in the O.A. proceedings.

23. It is further to be observed that in the O.A. proceedings, notices were sent to the Appellant through speed post and the same were duly delivered to the Appellant. All these facts clearly depict that Appellant was having full knowledge of the O.A. proceedings and intentionally avoided to appear in the O.A. proceedings. Thereafter, when the Recovery Proceedings began, she made out a case for setting aside the ex parte judgment.

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Appellant failed to prove any sufficient cause for condonation of delay in moving the application under Order 9 Rule 13 C.P.C. for setting aside the ex parte judgment passed in the O.A. proceedings.

24. Learned DRT has rightly dismissed the application and passed the impugned order. Impugned order does not require any interference. Appeal is devoid of merits and is liable to be dismissed.

O R D E R

Appeal is dismissed. Judgment and order dated 11.6.2025 passed by the Learned DRT, Guwahati in EDRT Dy. No. 728 of 2024 (M.A.) [Hoipi Haokip -vs- North Eastern Development Finance Corporation Limited (NEDFi)], in I.A. 624 of 2024, is hereby affirmed.

File be consigned to Record room.

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

Order signed, dated and pronounced in open Court.

(Anil Kumar Srivastava,J)
Chairperson

Dated: 15th July, 2026
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