

BEFORE THE DEBTS RECOVERY APPELLATE TRIBUNAL: KOLKATA
CAMP COURT AT DRT, VISAKHAPATNAM
HON'BLE MR. JUSTICE ANIL KUMAR SRIVASTAVA
CHAIRPERSON

Dy. No. 161/2026 (Regular Appeal).

IA 120/2026

(Arising out of SA No.81/2024 In DRT, Visakhapatnam)

1. Union Bank of India, represented by its Authorized Officer, Dhanalakshmi Branch, Vaviletipadu Panchayat, Gundlapalem Post, Nellore-2002.

....Appellant

-Versus-

1. Mrs. Shaik Vahida, wife of Md. Khader Nawaz, D. No. 2-7-100, Parchuri Street, Mypadu Gate, Nawabpeta, SPSR Nellore-524002, presently residing at D. No. 12-3392, Bugga Street, Renugunta, Tirupathi District.

....Respondent

2. Mr. Shaik Khadar Basha, son of Karimulla, Plot No. 92, Revenue Colony, Kothur, SPSR Nellore.

.... Proforma Respondent

Counsel for Appellants

Mr. Dipanjan Dutta, Mr. Subhojit Chowdhury

Counsel for Respondents

Mr. Nemani Srinivas

JUDGMENT

: 20th July ,2026

THE APPELLATE TRIBUNAL:

Heard the Ld. Counsel for the parties on IA No. 120/2026 Application under Section 5 of Limitation Act, 1963 for condonation of delay and perused the records.



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2. Instant Appeal is preferred by the Bank against the Judgment and order dt. 15.02.2025 passed by Learned DRT, Visakhapatnam allowing the **SA 81/2024 (Mrs. Shaik Vahida W/o Md. Khader Nawaz Vs. Union Bank of India and another)**. Appeal is filed on 11.02.2026 along with I.A. No. 120/2026, Application under Section 5 of the Limitation Act, 1963 for condonation of delay of 332 days in preferring the Appeal.

3. Learned Counsel for the Appellant would submit that delay is not intentional, rather it is procedural. It is submitted that the impugned Judgment was passed by Learned DRT on the ground that the concerned Authorized Officer /Bank Manager who was looking after the case got transferred and he lost track of the case. Thereafter, a new Authorized Officer/ Branch Manager joined in the Bank. When MA No. 2329/2025 was filed by Respondent No.1 before the Learned DRT, Visakhapatnam, then the matter came to the notice of the Branch Manager. In the meantime, Judgment of the Hon'ble Supreme Court of India passed in **M. Rajendran & Ors. Vs. M/s. KPK Oils and Proteins India Pvt Ltd & Ors (2026) 3 SCC 505** was delivered along with Judgment of the Hon'ble DRAT, Kolkata in **Sri Rahul Mashahary, proprietor of Ganashing Auto Agency Vs. Punjab National Bank** and Ors. in Appeal No. 61/2024 was also delivered, wherein legal position regarding notice under Rule 8(6) and 9(1) of the Security Interest (Enforcement) Rules, 2002 was clarified. Then in the later half of 2025, Bank decided to prefer an appeal against



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impugned Judgment. Application for certified copy was filed on 10.12.2025 which was made available on 27.12.2025. Thereafter, the Zonal Office engaged the Counsel. After consultation with the Ld. Counsel for the Appellant, appeal was preferred and filed on 23.01.2026. Ld. Counsel of the Appellant would submit that there is no delay in filing the Appeal. It is not intentional, rather it is procedural when the impugned Judgment came to the notice of successor branch manager on filing of the MA. Thereafter decision was taken to prefer an appeal.

4. Per contra, the Learned Counsel for the Respondent would submit that the Appellants failed to show sufficient cause as required under law for condonation of delay in preferring the Appeal within the period of limitation. Learned Counsel would submit that mere change of law of some Judgment of Hon'ble Supreme Court or Hon'ble High Court could not be made a ground for consequential filing of Appeal.

5. Learned Counsel would submit that even on factual aspects, no sufficient ground could be shown by the Appellant as to how the earlier Branch Manager or Authorized Officer could not file an appeal, when the Judgment was delivered with notice to the Bank?

6. Learned Counsel has placed reliance upon the Judgment of Hon'ble Apex Court in ***Delhi Development Authority Vs. Tejpal and Others, (2024) 7 SSC 433.***



7. As far as the issue of condonation of delay under Section 5 of the Limitation Act, 1963 is concerned, law is very well settled by the Hon'ble Apex Court in the case of ***Sheo Raj Singh (Deceased) through Legal Representatives & Others -vs- Union of India & Another [(2023) 10 SCC 531]*** has held 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."

8. 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."

9. 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."

10 . As far as fact of the present case is concerned, the only ground is that the concerned Authorized officer of the Bank lost track of the case when the impugned Judgment was passed. Secondly, when MA was filed, the Respondents successor branch Manager came to know about the impugned Judgment. In the meantime, Judgment of the Hon'ble Apex Court in the case of ***M. Rajendran & Ors. Vs. M/s. KPK Oils and Proteins India Pvt Ltd & Ors*** (supra) was delivered, regarding Sale Notice under Rule 8(6) and 9(1) of the Security Interest (Enforcement) Rules, 2002 was clarified, which touches the merits of the matter.

11. As far as legal position is concerned, in the case of ***Delhi Development Authority Vs. Tejpal and Others,*** (supra) the Hon'ble Supreme Court held that subsequent change of law will not be attracted in this case which is pending before the competent Court for its final adjudication. To say it differently if a case has already been decided, it cannot be reopened or re-decided solely on the basis of the new interpretation given by the law.

12. The Hon'ble Apex Court dealt with delay about different circumstances whether if the subsequent change of law will be considered in the decided matter, what would be the effect of it? It was further held that :

38. Firstly, this ground seeks to use events temporally subsequent to the expiry of the limitation period to justify the delay. To revisit Section 5 of the Limitation Act, the text of the statute provides that an appeal or application may be admitted after the prescribed period if the "appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period". Hence, the appellants are required to explain that they were diligent during the prescribed period of limitation and could not file the appeal because of a "sufficient cause" arising within the prescribed period.

41. A party cannot be allowed to take advantage of its deliberate inaction during the limitation period. Allowing to the contrary would distort incentives for parties and create dystopian consequences for our judicial process. To put this in right perspective, two scenarios can be juxtaposed : one, where the appellants had been vigilant and had preferred an appeal within the limitation period, but would have failed to succeed as the governing law during that time was as stated by Pune Municipal Corpn. [Pune Municipal Corpn. v. Harakchand Misirimal Solanki, (2014) 3 SCC 183, para 17 : (2014) 2 SCC (Civ) 274] and Sree Balaji Nagar Residential Assn. [Sree Balaji Nagar Residential Assn. v. State of T.N., (2015) 3 SCC 353, para 11 : (2015) 2 SCC (Civ) 298] ; and second, where the appellants deliberately allowed the limitation period to expire and have now approached this Court using the subsequent change of law as a ground for allowing the appeals. Now, if the appellants are allowed to file the appeals in the second scenario, it will lead to an anomalous situation where the appellants that were vigilant were not able to get the remedy but the ones that were sleeping over their rights would obtain relief. This would run counter to the purpose of the Limitation Act, which, instead of giving finality to the proceedings, would be permitting the parties to use the delay to their advantage.

42. Thirdly, if subsequent change of law is allowed as a valid ground for condonation of delay, it would open a Pandora's box where all the cases that were subsequently overruled, or the cases that had relied on the judgments that were subsequently overruled, would approach this Court and would seek a relief based on the new interpretation of law. There would be no finality to the proceedings and every time this Court would reach a different conclusion from its previous case, all such cases and the cases relying on it would be reopened.

44. Finally, the fourth reason why subsequent overruling of a judgment cannot be a sufficient cause is because when a case is overruled, it is only its binding nature as a precedent that is taken away and the lis between the parties is still deemed to have been settled by the overruled case. 22 It is a settled principle of law that even an erroneous decision operates as res judicata between the parties R. Unnikrishnan versus V.K. Mahamudevan (2014) 4 SCC 434. Hence,



when *Manoharlal*¹⁴ overruled *Pune Municipal Corpn.*⁴ and *Sree Balaji Nagar Residential Assn.* 6, as well as all other cases relying on them. it only overruled their precedential value, and did not reopen the lis between the parties. The mere fact that the impugned orders in the present case were overruled by *Manoharlal*¹⁴ would not, therefore, be a sufficient ground to argue that the cases should be reopened.

46 There can, however, be no doubt that a lis will have to be decided as per the new interpretation if during its pendency, the law has been construed in a different manner by a subsequent judgment. We say so for the reason that such new construction shall be deemed to be the correct understanding of the statute from its very inception. We find support in this regard from *Shyam Madan Mohan Ruia v. Messer Holdings Ltd.* [*Shyam Madan Mohan Ruia v. Messer Holdings Ltd.*, (2020) 5 SCC 252, para 18 : (2020) 3 SCC (Civ) 241], in which the High Court had dismissed the suit based on the decision of this Court in *Foreshore Coop. Housing Society Ltd. v. Praveen D. Desai* [*Foreshore Coop. Housing Society Ltd. v. Praveen D. Desai*, (2015) 6 SCC 412 : (2015) 3 SCC (Civ) 333]. During the pendency of appeal, *Foreshore Coop. Housing Society* [*Foreshore Coop. Housing Society Ltd. v. Praveen D. Desai*, (2015) 6 SCC 412 : (2015) 3 SCC (Civ) 333] was overruled in *Nusli Neville Wadia v. Ivory Properties* [*Nusli Neville Wadia v. Ivory Properties*, (2020) 6 SCC 557 : (2020) 3 SCC (Civ) 671]. This Court while deciding the issue in *Shyam Mohan Ruia* [*Shyam Madan Mohan Ruia v. Messer Holdings Ltd.*, (2020) 5 SCC 252, para 18 : (2020) 3 SCC (Civ) 241], held that since the precedent forming the very basis of the High Court's decision stood overruled, the dispute before it must be decided as per the later decision.

13. In the present case, Appellant is trying to take advantage of two facts. Firstly, change of authorized officer of the Bank, who was posted at the time of delivery of impugned Judgment and secondly, change of law as per the Judgment passed by Hon'ble Apex Court in the case of ***M. Rajendran & Ors. Vs. M/s. KPK Oils and Proteins India Pvt Ltd & Ors*** (supra). Both these grounds are unsustainable. The principle of Master and Servant would be applicable in the case wherein officer of the Bank and the Bank have a relationship of master and servant. Master would be liable for any act of the servant. Accordingly, if Branch Manager has committed any mistake, Bank has to take responsibility of the same. Therefore, the change of the Branch Manager on



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the ground that he lost track of the case could not be a ground for condonation of delay.

14. As far as change of law is concerned, law is very well settled in the case of **Delhi Development Authority Vs. Tejpal and Others**, (supra) which ground could not be taken by the Appellants.

Accordingly, we are of the considered view that the Appellants failed to make out the case for condonation of delay of 332 days. Delay in filing Appeal cannot be condoned. Application under Section 5 of Limitation Act, 1963 is liable to be dismissed.

ORDER

Accordingly, IA No. 120/2026 is devoid of merits and is dismissed. Consequently, Appeal Dy.No.161/2026 is also dismissed as time barred.

Pending IAs if any, stand disposed of.

File be consigned to record room.

Copy of the Judgment/Final order be uploaded in the Tribunal's website.

(Order dictated signed and pronounced by me in the open Court on this 20th day of July, 2026)

(ANIL KUMAR SRIVASTAVA, J)
Chairperson

20.07.2026

Dated: 20th JULY, 2026
Lt/4