

(2025) 12 GUJ CK 0056

Gujarat High Court

Case No: R/Civil Application (For Condonation Of Delay) No. 1131 Of 2025 In F/First Appeal
No. 4334 Of 2025

Mahendrasinh Kalusinh Gohil

APPELLANT

Vs

Pradipsinh Chhatrasinh Gohil &
Ors

RESPONDENT

Date of Decision: Dec. 8, 2025

Acts Referred:

- Limitation Act, 1963-Section 5

Hon'ble Judges: Hasmukh D. Suthar, J

Bench: Single Bench

Advocate: Nishit A Bhalodi, Kirti S Pathak

Final Decision: Allowed

Judgement

Hasmukh D. Suthar, J

[1.0] This application is filed under Section 5 of the Limitation Act for condonation of delay of 948 days caused in filing the First Appeal.

[2.0] Though served, respondent Nos.1 and 2 have chosen not to appear.

[3.0] It is submitted by the learned advocate for the applicant that the applicant could not file the First Appeal in timely fashion because of the reasons mentioned in the application and therefore, has requested to condone the delay caused in filing the First Appeal.

[4.0] Learned advocate for respective respondents have vehemently opposed the present application.

[5.0] Considering the submissions made by the learned advocates for the respective parties, the applicant has mentioned sufficient cause for condonation of delay. The primary function of the Court is to adjudicate the dispute between the parties and to advance substantial justice. Rules of

limitation are not meant to destroy the rights of parties. The Court is aware of the fact that denial to condone the delay would mean to dismiss the First Appeal at threshold and there is no presumption that the delay caused by the applicant is deliberate. In view thereof, the words 'sufficient cause' under Section 5 of the Limitation Act should receive a liberal consideration so as to advance substantial justice. Even reason stated appears to be bonafide and genuine. There is no smack of malafide or dilatory tactics on the part of the applicant. Further, it is apposite to refer to the decision of the Hon'ble Apex Court in the case of N. Balakrishnan v. N. Krishnamurthy reported in (1998) 7 SCC 123.

[6.0] In view of the above, the delay of 948 days as explained in memo of the application is condoned subject to condition that the applicant shall not claim interest for the aforesaid delayed period. The application is accordingly allowed.