

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 4776 OF 2026
IN
COMMERCIAL FIRST APPEAL NO. 29 OF 2026
IN
COMMERCIAL SUMMARY SUIT NO. 426 OF 2023

M/s Riyan Paper Mills
Versus
Sharadchandra P Shah Agency Private Limited

...Applicant/Appellant
...Respondent

Mr Taranjit Singh Sukhvinder Singh, for Applicant/Appellant.
Mr Rishabh Jadhav i/b Parinam Law Associates, for Respondent.

CORAM: G. S. KULKARNI &
DR. NEELA GOKHALE, JJ.

RESERVED ON: 10th SEPTEMBER 2026
PRONOUNCED ON: 29th SEPTEMBER 2026

P.C.

1. This Interim Application seeks condonation of delay of 1 year and 88 days in filing the accompanying Commercial First Appeal challenging the ex-parte Judgment and Decree dated 06.11.2024 passed by the City Civil Court, Bombay, in Commercial Summary Suit No. 426 of 2023, whereby the Applicant was directed to pay Rs. 39,73,131/- with interest.
2. The Applicant's case, in brief, is that no summons in the suit was ever served upon it at its registered or principal place of business; that it had no knowledge whatsoever of the pendency of the suit or the passing of the decree; and that it acquired knowledge of the decree only on 03.03.2026,

upon appearing pursuant to summons in Execution Proceedings bearing COMM EX/2/2025 before the Learned Court at Kathor, Surat. On this basis, it is contended that the delay is neither willful nor deliberate but attributable solely to want of knowledge and deserves to be condoned in the interest of justice.

3. The Respondent has opposed the Application by filing an Affidavit in Reply. It is contended therein that the Writ of Summons in the suit was duly served upon the Applicant on 23.11.2023, as recorded in the Joint Affidavit of Service dated 18.12.2023 and the accompanying postal tracking report, at the address “Block No. 35, Revenue Survey No. 28, Near Dastan Railway Crossing, Dastan, Surat.” It is further contended that this very address is reflected on the Applicant’s own letterhead, in the Authorization/Resolution filed with the Appeal, and as the Applicant’s principal place of business as per GST records.
4. Crucially, the Respondent has placed on record, as Exhibit “J” to the Affidavit in Reply, the Notice/Summons issued in the very Execution Proceedings on which the Applicant claims to have first gained knowledge of the decree. The said Summons was addressed to the Applicant at the same address, and the postal tracking report annexed thereto confirms delivery on 27.02.2026, pursuant to which the Applicant duly entered appearance. The Applicant does not dispute receipt of this summons.
5. It is thus evident that the Applicant has accepted service at the same address for the purpose of appearing in execution proceedings, while disputing

service at the same address for the purpose of resisting the decree. This conduct, taken with the fact that the address in question is the Applicant's own declared address across its letterhead, authorisation documents and statutory (GST) records, does not inspire confidence in the plea of want of knowledge. It reflects, rather, a selective and convenient stand adopted to defeat the execution of a decree already passed, rather than a genuine case of non-service.

6. It is further relevant to note that for the purpose of condonation of delay under Section 5 of the Limitation Act, the Applicant is required to explain the delay for the entire period, from the date on which limitation began to run till the actual date of filing, and not merely for a part thereof.
7. The Hon'ble Supreme Court in *Shivamma (Dead) By LRs v. Karnataka Housing Board & Ors*¹ has held that:

“115. However, as is manifest from the entire discussion above, for the purpose of condonation of delay in terms of Section 5 of the Limitation Act, the delay has to be explained by establishing the existence of "sufficient cause" for the entirety of the period from when the limitation began till the actual date of filing. In other words, if the period of limitation is 90 days, and the appeal is filed belatedly on the 100th day, then an explanation has to be given for the entire 100 days”.

8. In the present case, the Applicant has failed to offer any day-to-day explanation for the delay of 1 year and 88 days and has furnished only a vague and general narrative unsupported by particulars for each period of default. Such omnibus explanation, unsupported by cogent material

¹ 2025 INSC 1104

accounting for the delay period-wise, does not satisfy the threshold of “sufficient cause” as mandated in law.

9. In a recent case in the matter of *Thirunagalingam vs Lingeswaran and*

Another,² the Supreme Court, renoticing its earlier decisions, held as below:

“5. We are in complete agreement with the view taken by the High Court. Once it was found even by the learned trial Court that delay has not been properly explained, and even if there are no merits in the application for condonation of delay, thereafter, the matter should rest there, and the condonation of delay application should have been dismissed. The approach adopted by the learned trial Court that, even after finding that, in absence of any material evidence, it cannot be said that the delay has been explained and that there are no merits in the application, still to condone the delay would be giving a premium to a person who fails to explain the delay and who is guilty of delay and laches. At this stage, the decision of this Court in the case of *Popat Bahiru Goverdhane v. Land Acquisition Officer*, reported in (2013) 10 SCC 765, is required to be referred to. In the said decision, it is observed and held that the 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 of limitation on equitable grounds. 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.

10. In the case of *Maniben Devraj Shah v. Municipal Corporation of Brihan*

Mumbai,³ in paragraph 14, it is observed and held as under:

“The law of limitation is founded on public policy. The Limitation Act, 1963 has not been enacted with the object of destroying the rights of the parties but to ensure that they approach the court for vindication of their rights without unreasonable delay. The idea underlying the concept of limitation is that every remedy should remain alive only till the expiry of the period fixed by the legislature.

² 2025 INSC 672

³ (2012) 5 SCC 157

At the same time, the courts are empowered to condone the delay provided that sufficient cause is shown by the applicant for not availing the remedy within the prescribed period of limitation.”

11. In view of the aforesaid discussion and in the facts of the present case and the settled legal position, we are not satisfied that sufficient cause has been shown for condoning the delay of 1 year and 88 days. The explanation offered is neither bona fide nor consistent with the Applicant’s own conduct in accepting service at the same address for other purposes connected with the same proceedings. We find no reason to condone the delay.

12. Thus, the Interim Application No. 4776 of 2026 is dismissed. No costs.

(DR. NEELA GOKHALE, J)

(G. S. KULKARNI, J.)

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