

PRANESH
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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO.892 OF 2026
WITH
REVIEW PETITION (ST.) NO.40325 OF 2025
IN
FIRST APPEAL NO.1106 OF 2018**

1. Vinodkumar Chetram Ganeriwala
Adult, Indian Inhabitant,
Residing at A602, Acropolis Apartment,
Opposite HDFC Bank, Thatte Nagar,
Gangapur Road,
Nashik, Maharashtra 422 005.

2. Jitesh Vinodkumar Ganeriwala
Adult, Indian Inhabitant,
Residing at A602, Acropolis Apartment,
Opposite HDFC Bank, Thatte Nagar,
Gangapur Road,
Nashik, Maharashtra 422 005.

....Applicants
(Orig. Petitioners)

V/s.

1. Khushalchandra Lalitaprasad Poddar
Age 65 yrs., Occ. Business,
R/o. 203, Guru Ashish, Canada Corner,
Opp. Telephone Exchange,
Sharanpur Road, Nashik, Dist. Nashik.

2. Kamlesh Vijaykumar Ganeriwala
Residing at Bunglow No.107,
St. Patricks Town, Housing Society,
Pune Solapur Road, Behind Krome
Furniture, Hadapsar, Pune
Maharashtra 411 013.

3. The Assistant Charity Commissioner,
Nashik.

....Respondents

Mr. Tushad Kakalia a/w Ms. Anjali Sharma, Mr. Suraj Agarwal i/by
Crawford Bayley the Applicants/original petitioners.

Ms. Kashish Singhi for respondent no.2.

CORAM : JITENDRA JAIN, J.
DATED : 2 February 2026

Judgment :

1. This interim application is taken out by the applicants (appellants in First Appeal No.1106 of 2018) for seeking condonation of delay of 645 days in filing review petition seeking to review the order dated 6 February 2024 by which First Appeal No.1106 of 2018 was disposed of.

2. The learned counsel for the Applicants states that as per Article 124 of the Limitation Act, 1963, the review petition ought to have been filed within 30 days but same has been filed on 18 December 2025, thereby resulting into delay of 645 days. The learned counsel for the Applicants submits that the reason for the delay is stated in paragraph 4 to 6 of the application, which reads as under :-

“4. The Applicants are based in Nashik and had to travel to Mumbai repeatedly to confer with counsel and take steps in relation to the matter. The Impugned Judgment involved complex questions concerning the scope of appellate powers under Section 70 of the Maharashtra Public Trusts Act, 1950, the validity of appointments under a Scheme framed by this Hon'ble Court, and the propriety of a remand order under Order XLI Rule 23A CPC. The Applicants were therefore constrained to engage in a diligent search for and consultation with appropriate counsel having requisite expertise in trust and scheme related litigation. Considerable time was consumed in identifying suitable counsel, holding conferences, and obtaining a considered legal opinion as to whether a Review Petition was maintainable and warranted.

5. The intervening summer vacation period of the High Court also delayed the finalization of the review papers. The delay was further compounded by personal circumstances, including a wedding in the family, which temporarily disrupted the Applicants' ability to attend to litigation.

6. In the interim period, the Applicants made genuine and diligent efforts to resolve the dispute amicably. In furtherance thereof, communications were addressed to Respondent No.1 with a view to amicably settle the issues arising out of Change Report No. 4 of 2004 and thereby avoid protracted litigation. The Applicants first issued a letter dated 18 March 2025, to which Respondent No.1, along with certain other members of the Trust, replied vide their communication dated 12 May 2025; however, the said reply was wholly unsatisfactory and failed to address the concerns raised. Consequently, the Applicants were constrained to issue further letters dated 2 July 2025 and 6 October 2025. No response was received from Respondent No.1 to either of the said communications. In these circumstances, the Applicants continued to await a response up to the filing of the present Review Petition. Owing to the persistent non-response and failure to resolve the matter amicably, the filing of this Review Petition became necessary and unavoidable."

3. The learned counsel further states that the main dispute revolves around change report of 2004 and the first appeal was decided in the year 2024. He submits that looking at the time lag by which the first appeal came to be decided, the delay is of a very small period. He further submits that 30 days time provided by the Limitation Act is too less. He further submits that the issue is of important question of law as to whether if a remand order is challenged, then whether the matter can be decided by the Appellate Court itself or ought to uphold the remand order. He, therefore, submits that since important question of law is involved, the delay should be condoned.

4. I have heard learned counsel for the applicants and the respondents.

5. The reason given in paragraph 4 states that the applicants were constrained to engage a counsel who is an expert in trust matters and, therefore, considerable time was consumed in identifying such a counsel. However, paragraph 4 does not state as to when the applicants were able to identify an expert counsel on the issue of trust. No details have been furnished except bald statement.

6. In my view, this cannot be a ground which would constitute "sufficient cause". In any case, there is no supporting document in support of this particular cause. This is a general and vague statement made to explain the delay of 645 days.

7. In paragraph 5, it is stated that because of intervening summer vacation period, there was a delay in finalizing the review papers. In paragraph 5, the reason of wedding is also given. There is nothing on record to show as to when a specialized counsel was identified, who was identified, when it was identified and how the same overlapped with the summer vacation and the wedding. Even in support of paragraph 5, nothing has been annexed to the interim application except making a bald statement. Between February 2024 and filing of review there were 2 summer vacations and out of that which one came in their way to prevent them from filing the review is not mentioned. Even in vacation if urgency is shown filing permission is granted. Therefore even this reason cannot be accepted.

8. In paragraph 6, the reason given is of the applicants making attempts to settle the matter with respondent. In paragraph 6, there is a reference to first letter of 18 March 2025 on this issue. The said letter though not annexed, pertains to a period after the expiry of 1 year from the date of the impugned order. Therefore, to say that the applicants were making an

attempt to settle the dispute during the limitation period cannot be accepted. This attempt was not made within the limitation period provided under the Act, but almost after 1 year from the date of the impugned judgment and much after the expiry of limitation period.

9. The submission made by the learned counsel that because the change report pertains to 2004 and the first appeal is decided in 2024 i.e., after almost 2 decades when compared with the delay of 645 days is very short cannot be accepted. The issue is not how much time the Appellate Authority or the Court took to decide the matter, but the issue for condoning the delay has to be examined whether for the period of delay, there was sufficient cause. This would arise only after the order is passed. Therefore, pendency of the matters before the Authorities and the Court cannot be a ground to explain the delay caused after passing the order against which review has to be filed. The delay post expiry of limitation period cannot be justified by attributing time taken by the Court in disposing the appeal. This cause is also not stated in the application but argued across the bar.

10. The learned counsel also submitted that the issue raises an important question of law and, therefore, the delay should be condoned. In my view, for condoning the delay, what is to be examined is “sufficient cause” and not the importance of question of law. If, according to the applicants, the impugned order raises important question of law, then all the more reasons for the applicants to have acted speedily, than to wait for 645 days. Therefore, this submission is self-contradictory.

11. The learned counsel further states that period of 30 days is too less. The period of 30 days is provided by a Statute i.e., Article 124 of the Limitation Act 1963. When the legislature has provided certain time frame

within which certain proceedings have to be filed, then it has factored the time which a litigant would take to consult and take a decision whether to file the proceedings or not. This would not mean that the period of limitation can be given a go-bye by taking recourse to Section 5 of the Limitation Act. The Schedule to the Limitation Act provides for various periods for different types of proceedings to be filed. The legislature consciously has factored the time taken by a litigant for consultation and other things to comply with the limitation period provided therein for different proceedings. Therefore, the submission made that period of 30 days is too less to file the review petition cannot be accepted. It is also important to note that this submission is not forming part of the interim application.

12. The phrase “sufficient cause” and the period of limitation came up for consideration recently before the Hon’ble Supreme Court in the case of *Shivamma (Dead) By LRs. Vs. Karnataka Housing Board & Ors.*¹.

13. In my view, the cause shown in the present application does not constitute “sufficient cause” but is only an attempt which would constitute “excuses” and that too without any supporting thereof.

14. In view of above, the interim application is dismissed. Consequently, the review petition does not survive and is disposed of.

15. This order is dictated in open Court.

(JITENDRA JAIN, J.)

1 2025 SCC online SC 1969