IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2026
(arising out of SLP (C) No. 23859/2025)

JANARDHAN DASS ...APPELLANT(S)

VERSUS

KIRNESH JUNG ...RESPONDENT(S)

O R D E R

1. Leave granted.

2. The present appeal has been filed challenging the impugned judgment dated 10.04.2025 passed by the High Court of Himachal Pradesh at Shimla in C.M.P.(M) No. 312/2023, wherein, the application seeking condonation of delay in filing the second appeal by the appellant has been dismissed.

3. The appellant is the plaintiff in Civil Suit No. 21/1 of 2011/13/15. The prayer in the suit was to cancel the sale deed dated 26.05.2010, executed between plaintiff and the defendant-respondent for the suit properties, subsequent mutation entries and for injunction to restrain the defendant from entering into

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Reason:

the suit properties.

4. The Trial Court was pleased to partly decree the suit to the extent of cancelling the sale deed dated 26.05.2010, subject to the repayment of Rs. 6,40,000/- to the respondent by the appellant out of the total consideration of Rs. 16,50,000/-, and also granted the relief of injunction. The First Appellate Court, allowed the appeal filed by the defendant-respondent and dismissed the suit. Aggrieved, the appellant preferred an application seeking condonation of delay in filing the regular second appeal.

5. We have heard the learned counsel appearing for the appellant and learned Senior counsel appearing for the respondent.

6. Learned counsel appearing for the appellant would submit that the judgment of the First Appellate Court though a reasoned one, was passed *ex parte*. In such view, there was a delay in filing the second appeal coupled with the COVID-19 pandemic in the interregnum. However, the said factors have not been taken into consideration by the High Court.

7. Learned Senior counsel appearing for the respondent would submit that the delay is beyond the set-off period of COVID-19 and, in any case, the judgment cannot be termed as having been rendered *ex parte.*

8. We are dealing with a case where the Trial Court has partly decreed the suit in favour of the appellant, while the Appellate Court set aside the decree, without hearing the appellant. The second appeal was dismissed by the High Court refusing to condone the delay in filing the same.

9. On perusal of the judgment passed by the First Appellate Court, we find that the decree in favour of the appellant has been set aside *ex parte*. Considering the facts, we are inclined to hold that the appellant is certainly entitled to the relief of condonation of delay, as merely the duration of delay *per se,* cannot be a ground to reject the substantive right of the appellant, especially, when it involves reversing the decision of the Trial Court. The Courts are not expected to adopt such a pedantic approach, while adjudicating an application under Section 5 of the Limitation Act, 1963.

10. Taking note of the aforesaid facts, we are inclined to set aside the impugned order whereby the condonation of delay application filed by the appellant has been rejected. However, we make it clear that we have not expressed anything on the merits of the case.

11. Liberty is granted to the appellant to file an appropriate application for impleading the proposed party, as during the pendency of the proceedings, the

respondent is stated to have alienated the property in favour of the said proposed party.

12. The appeal is, accordingly, allowed.

13. Pending application(s), if any, shall stand disposed of.

……J.
(M.M. SUNDRESH)

……J.
(PRASANNA B. VARALE)

NEW DELHI;
SEPTEMBER 29, 2026

ITEM NO.45 COURT NO.3 SECTION III-B

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 23859/2025

[Arising out of impugned final judgment and order dated 10-04-2025 in CMPM No. 312/2023 passed by the High Court of Himachal Pradesh at Shimla]

JANARDHAN DASS **Petitioner(s)**

VERSUS

KIRNESH JUNG **Respondent(s)**

IA No. 106533/2026 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 260828/2026 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 260336/2026 - INTERVENTION/IMPLEADMENT

Date : 29-09-2026 This matter was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE M.M. SUNDRESH
HON'BLE MR. JUSTICE PRASANNA B. VARALE

For Petitioner(s) :Mr. Ajit Sharma- 2060, AOR
Mr. Kanchan Kumar Singh, Adv.
Mr. Yuvrajsinh C. Solanki, Adv.
Mr. Anant Ram Mishra, Adv.
Ms. Shweta Jain, Adv.

For Respondent(s) :Mr. J.S. Attri, Sr. Adv.
Mr. Chandra Nand Jha, Adv.
Mr. Kumar Ranjan, Adv.
Mr. Rameshwar Prasad Goyal- 1350, AOR

UPON hearing the counsel the Court made the following

O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(NEETU SACHDEVA) **(POONAM VAID)**
DEPUTY REGISTRAR **ASSISTANT REGISTRAR**

(Signed order is placed on the file)