



\$~65

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

# **CNR No. DLHC011323092024**

+ **RFA 794/2026, CM APPL. 51889/2026**

**SURESH RAWAT**

.....Appellant

Through: **Mr. Vinay Kumar Sharma, Advocate.**  
versus

**MANJU RANI**

.....Respondent

Through:

**CORAM:**

**HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA**

**ORDER**

% **07.08.2026**

**CM APPL. 51890/2026 (under Section 151 CPC read with Section 5 of Limitation Act Seeking Condonation of Delay of 149 days in filing the Appeal)**

1. The above Application has been filed on behalf of the Appellant seeking **condonation of 149 days in filing the Appeal RFA No.794/2026**, to challenge the Judgment and Decree dated 04.03.2024, whereby the Suit of the Plaintiff/Respondent is decreed for Rs.12,00,000/- along with *pendente lite* Simple Interest @ 6% per annum and future interest @ 7.5% per annum.
2. It is submitted in the Application that the Appellant had applied for the certified copies of the case record, for the purpose of getting the Appeal drafted. The certified copy of the impugned Judgment and Decree, stamped on 05.04.2024, was received. During this period, the main counsel for the Appellant suffered multiple heart attacks and remained hospitalised from



05.06.2024 till July, 2024, and his recovery after undergoing two angiographies took some time. Thereafter, the counsel for the Appellant applied for certified copies of the documents, which were received on 16.08.2024.

3. Thereafter, the drafting of the Appeal commenced. However, since the record pertained to litigation spanning about eight years, some time was consumed in preparation of the Appeal. The Appellant, being a resident of Madhya Pradesh, was also unable to regularly visit Delhi as several members of his family, including his wife, daughter, son and sister-in-law, were all suffering from various ailments.

4. It is stated that the daughter of the Appellant, Vaishnavi, has been suffering from Gallstones since the year 2020 and required proper care and supervision. His son, Sh. Hari Om, is stated to be disabled since birth and is undergoing neurological treatment. His wife, Rajeshwari, is stated to be suffering from Gallstones and thyroid-related ailments for the past ten years and has also undergone two surgeries for Hernia.

5. It is further stated that the wife of the brother-in-law of the Appellant, has been suffering from a brain tumour since the year 2020. Her husband has allegedly deserted her and owing to her illness, she is bedridden and has lost her eyesight. She underwent brain surgery and is presently residing with the family of the Appellant, who is also required to be attended to her medical needs.

6. Owing to the aforesaid circumstances, it was difficult for the Appellant to make the long journey to Delhi to visit his counsel. The Appellant could make himself available to his counsel only on 30.09.2024, whereafter the Affidavits and documents were signed. Certain changes were



suggested in the Appeal, which led to further delay in its filing.

7. It is submitted that there was a delay of 149 days in filing the Appeal and 636 days in re-filing the Appeal, which may be condoned.

**CM APPL. 51891/2026 (under Section 5 of the Limitation Act on behalf of the Appellant seeking Condonation of Delay of 636 days in Re-filing the Appeal)**

8. The present Application has been filed on behalf of the Appellant ***seeking condonation of delay of 636 days in re-filing the Appeal.***

9. It is submitted that the medical condition of the aforesaid family members subsequently aggravated, on account of which the Appellant was unable to take the necessary steps for removal of the objections raised by the Registry, resulting in delay of 636 days in re-filing the Appeal, which may be condoned.

**Submissions heard and record perused.**

10. The law relating to condonation of delay under Section 5 of the Limitation Act is well settled. While the expression “*sufficient cause*” is required to receive a liberal construction so as to advance substantial justice, such discretion cannot be exercised mechanically where the delay is attributable to negligence, inaction or want of *bona fides*.

11. In *Esha Bhattacharjee vs. Managing Committee of Raghunathpur Nafar Academy & Ors.*, (2013) 12 SCC 649, the Supreme Court, while delineating the principles governing condonation of delay, observed that though there can be no presumption that delay is deliberately caused, gross negligence on the part of the counsel or the litigant is required to be taken note of. The conduct, behaviour and attitude of a party relating to its inaction



or negligence are relevant considerations, since the Court is required to balance the scales of justice *qua* both the parties.

12. In Basawaraj v. Special Land Acquisition Officer, (2013) 14 SCC 81, the Supreme Court reiterated that the law of limitation is founded on public policy and that where negligence, inaction or want of *bona fides* is attributable to a party, the delay ought not to be condoned. The expression “*sufficient cause*” is required to receive a liberal construction to advance substantial justice, but only where the party is able to satisfactorily explain the delay and no negligence or lack of *bona fides* is imputable to it.

13. Therefore, *though the length of the delay is not by itself determinative*, the Applicant is required to furnish a *bona fide* and satisfactory explanation demonstrating that he was prevented by sufficient cause from pursuing the remedy within the prescribed period.

14. In the present case, there is a delay of 149 days in filing the Appeal. The first explanation furnished by the Appellant is that his main counsel suffered multiple heart attacks and remained hospitalised from 05.06.2024 till July, 2024 and thereafter, required time to recover from two angiographies.

15. However, the impugned Judgment and Decree was passed on 04.03.2024 and the certified copy thereof had already been obtained in April, 2024. The illness of the counsel admittedly commenced only on 05.06.2024. There is no explanation forthcoming as to the steps taken by the Appellant during the intervening period for filing the Appeal.

16. The other explanation sought to be furnished is that the Appellant, who is a resident of Madhya Pradesh, could not travel to Delhi on account of the various ailments suffered by his wife, daughter, son and sister-in-law.



Undoubtedly, illness of family members may constitute sufficient cause in an appropriate case. However, mere reference to various ailments, without demonstrating as to how they continuously prevented the Appellant from instructing his counsel or taking necessary steps for filing the Appeal, cannot constitute sufficient cause for the entire period of delay.

17. Even according to the Appellant, he was able to make himself available to his counsel on 30.09.2024, whereafter the Affidavits and documents were signed. The explanation that certain changes were thereafter suggested in the Appeal, also does not satisfactorily account for the delay in its filing.

18. *More significantly, there is an inordinate delay of 636 days in re-filing the Appeal.* The only explanation furnished is that the medical condition of the aforesaid family members got aggravated, due to which the Appellant was unable to have the objections raised by the Registry removed.

19. Once the Appeal had been filed, it was incumbent upon the Appellant and his counsel to diligently pursue the matter and take requisite steps for removal of the objections. No particulars have been furnished as to the nature of the objections raised by the Registry, the dates on which they were raised, the steps taken from time to time for their removal or the circumstances which prevented the Appeal from being re-filed for as long as 636 days.

20. Furthermore, there is no explanation as to why the personal presence of the Appellant was required for removal of the objections or how the ailments of his family members prevented the learned counsel from taking the necessary steps for re-filing the Appeal. The general assertion that the medical condition of the family members had aggravated, cannot explain



such prolonged inaction.

21. The conduct of the Appellant, therefore, reflects *lack of due diligence* in pursuing the statutory remedy. The explanation furnished is vague and omnibus and does not satisfactorily account either for the delay in filing or more particularly, ***the extraordinary delay of 636 days in re-filing the Appeal.***

22. *A liberal approach in considering an Application for condonation of delay, cannot be extended to such an extent as to render the law of limitation otiose.* In the absence of a satisfactory explanation for the prolonged inaction, no sufficient cause is made out for exercise of discretion in favour of the Appellant.

23. Accordingly, CM APPL. 51890/2026 seeking condonation of delay of 149 days in filing the Appeal and CM APPL. 51891/2026 seeking condonation of delay of 636 days in re-filing the Appeal, *are hereby dismissed.*

**RFA 794/2026:**

24. In view of dismissal of the Applications seeking condonation of delay in filing and re-filing the Appeal, ***the Appeal is also dismissed as barred by limitation.***

25. Pending Application(s), if any, are disposed of accordingly.

**NEENA BANSAL KRISHNA, J**

**AUGUST 7, 2026/va**