

* **HIGH COURT OF DELHI AT NEW DELHI**

+ **Review Pet. No.384/2015 in R.S.A. No.154/2014**

Decided on : 3rd September, 2015

SMT SHANTI DEVI Petitioner
Through: Mr. P. Chakraborty, Advocate.

Versus

CHIEF EXECUTIVE OFFICER
DELHI URBAN SHELTER IMPROVEMENT BOARD
..... Respondent

CORAM:
HON'BLE MR. JUSTICE V.K. SHALI

V.K. SHALI, J. (ORAL)

C.M. App. No. 14667/2015

1. This is an application seeking condonation of delay of 63 days in filing the application seeking review of the order dated 18.5.2015.
2. In the application it has been stated that some time was taken by the court in uploading the order dated 18.5.2015 and as the learned counsel for the appellant is aged about 80 years, he is suffering from respiratory and old age problems because of which he was advised to seek change of climate to avoid the pollution in Delhi. It is stated that learned counsel has left for his native place in Kolkata in the first week of June, 2015 and returned only on 16.7.2015. After returning in the middle of July, 2015, the Court had re-opened on 1.7.2015 and he filed the

present review application on 21.7.2015. It is stated that 23rd and 24th July and 30th and 31st July were court holidays and in case these are excluded total quantum of delay is 63 days. The application is supported with the affidavit of Shri P. Chakroborty, the learned counsel for the appellant. I have heard the learned counsel. I have also gone through the record. Since the delay in filing the review application is occasioned because of the ill health of the learned counsel, therefore, I am inclined to condone the delay treating the same as having been caused by reasons beyond the control of the learned counsel which will constitute sufficient cause within the definition of Section 5 of the Limitation Act.

3. Accordingly, the application stands allowed.

Review Petition No.384/2015

1. This is a petition seeking review of the order dated 18.5.2015. I have gone through the averments made in the application as well as heard the learned counsel for the appellant. It is well settled that the review is permissible only when there is an error apparent on the face of record or in the order or that the appellant is able to lay his hands on some new evidence which was not within his reach and knowledge earlier.

2. In the instant case the averments which have been made in the application clearly reflect that the appellant after having failed to show that the appeal of the appellant involves any substantial question of law has made another attempt to argue the case on merits so as to re-open the entire case afresh. This Court has already after hearing the learned

counsel for the appellant dealt with the so called questions of law which were formulated by the appellant earlier and came to the conclusion that none of the questions which have been raised by the appellant raise any question of law much less a substantial question of law and, therefore the impugned order, does not call for any interference by this Court.

3. The learned counsel for the appellant has also not been able to show that judgment of the trial court or the first appellant court which has upheld the same suffers from any perversity, therefore, this is only a fresh attempt made by the appellant to argue the matter afresh which cannot be permitted to be done under the garb of a review application.

4. In the light of the aforesaid the review petition is accordingly dismissed.

V.K. SHALI, J.

SEPTEMBER 03, 2015

**Aj
AD**