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

+ **FAO(OS) 120/2015**

WELL PROTECT MANPOWER SERVICE PVT LTD Appellant
Through: **Mr Tarkeshwar Nath, Mr Saurabh Kumar**
Tuteja and Mr Onkar Nath

versus

LOK NAYAK HOSPITAL Respondent
Through: **Mr Naushad Ahmed Khan**

CORAM:

HON'BLE MR. JUSTICE BADAR DURREZ AHMED

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

% **11.01.2016**

CM No. 4594/2015

This is an application seeking condonation of delay in filing the appeal. The reason given for the delay is that by the time the appellant, being a company, took a decision to challenge the impugned order it was virtually at the end of the period of the limitation for filing an appeal. It is also stated that an inadvertent error in computation of the limitation on their part took place. It is also stated that, additionally, preparation of the appeal in the office of the advocate also took some time.

When we had asked the learned counsel for the appellant as to why he was raking up technical issues on the merits of the accompanying appeal, he submitted that the CPC should be followed in letter and spirit. It may be pointed out that in the order dated 15.03.2012 the learned Single Judge had recorded that the written statement had not been filed. But, in point of fact it had been filed. The learned Single Judge on realising this aspect of the matter passed the order dated 21.01.2015 which is impugned before us

wherein it is specifically recorded that a written statement had been filed by the defendant / respondent on 09.03.2011 and it was on this basis that the earlier order dated 15.03.2012 directing *ex-parte* proceedings against the defendant was recalled and the written statement filed by the said defendant / respondent was taken on record. However, the learned counsel for the appellant went on pressing his objections with regard to the impugned order raising all kinds of technical issues. It is a well known saying that those who want to live by the sword must be ready to die by the sword.

The reason given for delay in filing the appeal is not acceptable apart from being extremely vague. The requirements of law are that the delay must be explained on a day to day basis. That has not happened in the present case. Consequently, we are dismissing this application for condonation of delay.

FAO(OS) 120/2015 and CM No. 4592/2015

In view of the dismissal of the condonation of delay application, the appeal also stands dismissed.

BADAR DURREZ AHMED, J

SANJEEV SACHDEVA, J

JANUARY 11, 2016
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