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

+ **FAO(OS) 27/2015**

M/S TRAFFIC MEDIA (INDIA) PVT LTD Appellant
Represented by: **Mr.Ashutosh Dubey, Adv.**

versus

DELHI METRO RAIL CORPORATION Respondent
Represented by: **Mr.Shiv Kumar, Adv.**

CORAM:
HON'BLE MR. JUSTICE PRADEEP NANDRAJOG
HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER
09.02.2016

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1. With regret we note that in large number of appeals we are noting supine indifference, culpable negligence and utter lack of concern by lawyers to discharge duties as honourable members of the legal profession, which is treated as a calling.
2. Instant case reflects the depth to which the lawyer for the appellant, who had filed OMP No.1277/2013, had fallen.
3. Entrusted with the brief by the appellant to file objections to an award dated February 01, 2013, the counsel drafted and filed the objections on the last date of limitation, being May 01, 2013.
4. It is apparent that the appellant did what it was expected to do. Hand-over the papers to a lawyer, settle and pay the fee.
5. Thereafter started the callous behaviour of the lawyer. Objections which were raised by the Registry on May 01, 2013 were partly removed.

The objections to the award were re-filed on May 08, 2013. The same day Registry pointed out that all objections had not been removed. Some further objections were removed and the petition was re-filled for the second time on May 16, 2013. All objections were not removed. The negligent counsel took back the petition and re-filed the same on August 08, 2013. Yet again all objections were not rectified. After a month the objections to the award were re-filed for the fourth time on September 11, 2013. Yet again the objections were not fully rectified and the petition was finally re-filed with all objections removed on December 16, 2013.

6. We highlight that as per the rules, orders and practice directions of this Court, objections listed by the Registry have to be removed within a week.

7. Justifying the huge gaps in re-filing the objections, the counsel filed false affidavit of his brother being detected with some kidney problem. The counsel forgot that in the era of internet the opposite side can access the website of this Court and find out other petitions filed by the counsel and appearances made; indeed the same shows that the counsel was merrily appearing in other Courts and was merrily filing petitions and applications in other cases.

8. Vide impugned order dated November 18, 2014 the learned Single Judge has dismissed IA No.20803/2013 in which prayer made was to condone the delay in filing the objections to the petition.

9. It is trite that law treats negligence by a litigating party differently vis-a-vis negligence by an agent. Negligence by the counsel is treated differently on the subject of delay to be condoned vis-a-vis negligence of the party.

10. From the fact that the appellant entrusted the brief to the counsel within time evidenced by the fact that objections to the award were drafted and filed within the period of limitation, we are of the opinion that the view taken by the learned Single Judge in not condoning the delay in re-filing is pedantic. The principle of law that procedural law is the handmaid of justice and not a mistress thereof has been overlooked by the learned Single Judge. Allowing the appeal and setting aside the impugned order dated November 18, 2014 we allow IA No.20803/2013 and condone the delay in re-filing the objections.

11. To recompense the respondent the inconvenience caused we make it a condition that condonation of delay in re-filing the objections would be subject to payment of cost in sum of ₹10,000/-. The same shall be paid by the appellant to the respondent within four weeks.

12. Along with proof of payment of cost, an application would be filed by the appellant in OMP No.1277/2013 annexing therewith the present order. The Registry shall thereupon list the OMP before the Roster Bench.

CM 904/2015 (stay)

Dismissed as infructuous.

PRADEEP NANDRAJOG, J.

MUKTA GUPTA, J.

FEBRUARY 09, 2016
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