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

+ LPA 432/2016 & CM Nos. 27907/2016 & 27908/2016

I K SAINI

..... Appellant

In person.

versus

THE JUNIOR ENGINEER (THE MUNICIPAL CORPORATION OF
DELHI) & ORS. Respondents

Through Ms. Biji Rajesh, Advocate for Mr.
Gaurang Kanth, Advocate for respondent No. 1.
Mr. Devesh Singh, ASC for respondent Nos. 3 and
4.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER

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05.08.2016

This Letters Patent Appeal impugns order dated 26th September, 2014 by which Writ Petition (C) No. 5656/2014 has been dismissed on the ground of delay and laches. The appellant also impugns order dated 20th April, 2015 by which the application for modification was dismissed as not maintainable.

2. As there is delay in filing and re-filing, two applications seeking condonation of delay for filing and re-filing of the appeal have been filed.

Before issuing notice on the said applications, we have deemed it appropriate to examine the appeal on merits.

3. The appellant states that he is a co-owner of property bearing No. A-70, NDSE, Part-II, New Delhi, which originally belonged to and was owned by his grandfather late Mr. Somnath Saini. The contention in the Writ Petition (C) No. 5656/2014 was that the next door neighbour had re-constructed property No. A-71, NDSE, Part-II, New Delhi in the year 2011. His father late Mr. Kishan Kumar Saini had escaped serious injuries as the wall being constructed in A-71, NDSE, Part-II, New Delhi had collapsed on 14th June, 2011. Late Mr. Kishan Kumar Saini had expired on 15th September, 2012.

4. The aforesaid writ petition was initially filed on 13th August, 2013, but was returned under office objection. The prayers made in the writ petition read as under:-

“(A) A Writ and/or writs, order and/or orders, directions and/or directions to the Municipal Corporation of Delhi Authorities i.e. the Respondent No. 1, 2 herein to produce the entire record relating to the Petitioner’s Complaint dated 15.05.2012 for consciable justice.

(B) A Writ and/or writs, order and/or orders, direction and/or directions on the Municipal Corporation of Delhi Building zone Department Authority i.e. the Respondent No. 1 herein to elucidate the entire aspects by

way of Concise Statement regarding the entire issue by filing of affidavit in opposition for appropriate relief/reliefs to your Petitioner.

(C) A Writ and/or writs, order and/or orders, direction and/or directions upon the Delhi Police Authority i.e. the Respondent No. 3 herein to take proper steps against the illegal activities of the Private Respondent so that the Petitioner is entitled to get proper remedies from the said State Authorities.

(D) A Writ and/or writs, order and/or orders, direction and/or directions to the Government of National Capital Territory of Delhi Authorities for effective steps for the functioning of the Resident Welfare Association (s) of the Colony, New Delhi South Extension Part-II in the interest of the non-partisan and effective working of the Post Colony which is very close to the V.V.I.P. Colonies of New Delhi.

(E) Any other appropriate writ/writs, order/orders Direction/Directions.

(F) Rule NISI in terms of the prayer (A), (B), (C) & (D) above.

(G) Cost incidental to this application.”

5. Having examined the prayers and the grievance, we find that the primary claim or dispute raised was pertaining to narrow escape which his father had when the under construction wall had collapsed on 14th June, 2011. In case the appellant or his father had any grievance, they were entitled to initiate ordinary civil action against the respondent No. 2. It is

accepted that the next door property has been constructed and is in occupation. As far as other reliefs prayed for in the writ petition are concerned, we do not think the matter requires any adjudication or examination.

6. In view of the aforesaid, we are not inclined to issue notice on the applications seeking condonation of delay. Consequently, the applications and appeal are dismissed. We clarify that in case the appellant files any civil suit, etc., the issue or subject matter will be examined in accordance with law. We also clarify that we have not stated or held that the appellant has any cause of action and/or the civil suit filed would not be barred by limitation.

SANJIV KHANNA, J.

SUNITA GUPTA, J.

**AUGUST 05, 2016
VKR/NA**