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

+ **FAO(OS) 3/2017**

M/S DRN INFRASTRUCTURE

..... Appellant

Through : Mr Manish Sharma with Mr Kirit S.
Javali

versus

M/S INDIAN OIL CORPORATION LIMITED

..... Respondent

Through : Ms Mona Aneja with Mr V. M. Koura

CORAM:

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE ASHUTOSH KUMAR

O R D E R

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09.01.2017

CM 461/2017(condonation of delay in re-filing)

This is an application for condonation of delay of 614 days in re-filing the present appeal.

We have gone through the application. The purported reasons for the delay in re-filing the appeal are that first there was a termite problem in the advocate's office, then there was water logging as a result of which, it is alleged, that a large number of files were damaged. Then, the advocate shifted his office but that was also sometime in July, 2014. Then, it is alleged that during the shifting documents got misplaced. It is further alleged that the process of re-constructing the misplaced files, which included the file of the present case, was undertaken. Unfortunately, it is alleged, as the computer systems of the advocate's office were severally damaged, it became a very difficult task. Furthermore, it is alleged that the clerk of the advocate, who was given the task of reconstructing the record, was

unable to do so because there were multiple deaths in his family and on account of his own health reasons. Because of all this, the clerk was unable to devote time and attention to the matter and it is because of this so-called emotional turmoil which the clerk was going through that, allegedly, he did not even inform the counsel about his inability to deal with the file in the proper manner. It is then alleged that it was only on 20.10.2016 when old records were being sifted that the advocate came across the records of the present case and it dawned upon him that the appeal in question had not been re-filed within time.

We are of the view that the delay in this case cannot be condoned. The alleged statement of facts narrated above itself reveals that these are mere excuses. No specific dates have been supplied in respect of the various so-called unfortunate events which took place. The story, upon a plain reading, appears to be too farfetched.

The delay is also substantial and that is of 614 days and the same cannot be condoned as sufficient cause has not been demonstrated. The application is dismissed. Because of the dismissal of the condonation of delay application, the appeal also stands dismissed.

BADAR DURREZ AHMED, J

ASHUTOSH KUMAR, J

JANUARY 09, 2017
SR