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

% *Date of Judgment: 24th September, 2018*

+ **LPA 544/2018**

J KHUSHALANI

..... Appellant

Through: Petitioner in person.

versus

BADARPUR THERMAL POWER STATION & ANR

..... Respondents

Through: Ms.Shaheen, proxy counsel for

Mr.Puneet Taneja, Adv.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J. (ORAL)

C.M.38686/2018 (delay)

1. This is an application filed by the appellant seeking condonation of delay of 1185 days in filing the present appeal. The appellant, who appears in person, submits that the delay was not caused on account of carelessness or negligence but on account of the fact that his wife was not keeping good health and is suffering from high blood pressure, neuro problems, osteoarthritis and has now got both her knees replaced. The appellant submits that he himself is also suffering from high blood pressure and neuro problems and on his being pre-occupied looking after his wife has caused delay of 1185 days in filing the present appeal.
2. We have heard the counsel for the appellant and examined the application seeking condonation of delay, which reads as under:

“1. That the applicant had filed LPA before this Hon’ble Court against the orders dated 5.5.2015 of Hon’ble Single Judge of this High Court in CWP No.3361 of 1992 which has been decided by single judge exceeding jurisdiction as per Delhi High Court Rules.

2. That the petitioner could not file LPA earlier as the rules were not within the knowledge of the petitioner and due to non keeping of Good Health by petitioners wife who is 70 years old and is suffering from High BP, Neuro Problem, Osteo Arthritis and had now got both knee surgery, therefore most of time was consumed in taking her to Hospital and looking after her for proper care.

3. That besides above problems the petitioner himself is also suffering from High BP and Neuro Problem and due to lack of fund could not purchase Delhi High Court Rules earlier therefore the process of filing of LPA had been delayed by about 3 years (1185 days) which may kindly be condoned and LPA be accepted for hearing.

PRAYER CLAUSE:

It is therefore prayed to this Hon’ble Court that in view of compelling reasons of wife and self illness to:

a. kindly condone the delay of 1185 days in filing of the present LPA

b. pass any other orders which this Hon’ble Court may deem fit and proper in the circumstances of the case.”

3. Reading of the application would show that the same is highly casual in nature, devoid of any material particulars, vague and does not disclose any cause, much less sufficient cause for the delay in filing the present appeal. The Supreme Court of India has repeatedly held that the expression “*sufficient cause*” in Section 5 of the Limitation Act should be given a liberal interpretation to advance substantial justice. It has

also been repeatedly held that length of delay is not to be considered provided the explanation is genuine and the delay was caused for sufficient reasons.

4. In the case of ***P.K. Ramachandran v. State of Kerala and Anr.*** reported at (1997) 7 SCC 556, the Hon'ble Supreme Court has held that an essential pre-requisite of exercising discretion to condone the delay is that the Court must record its satisfaction that the explanation for delay was either reasonable or satisfactory.
5. In ***Balvant Singh v. Jagdish Singh*** reported at 2010 (6) SCALE 749, it was held that the explanation rendered by the applicant has to be reasonable or plausible, so as to persuade the Court to believe that the explanation rendered is not only true, but is worthy of exercising judicial discretion in favour of the applicant. The relevant para reads as under:

“13. ... We may state that even if the term ‘sufficient cause’ has to receive liberal construction, it must squarely fall within the concept of reasonable time and proper conduct of the concerned party. The purpose of introducing liberal construction normally is to introduce the concept of ‘reasonableness’ as it is understood in its general connotation. The law of limitation is a substantive law and has definite consequences on the right and obligation of a party to arise. These principles should be adhered to and applied appropriately depending on the facts and circumstances of a given case. Once a valuable right, as accrued in favour of one party as a result of the failure of the other party to explain the delay by showing sufficient cause and its own conduct, it will be unreasonable to take away that right on the mere asking of the applicant, particularly when the delay is directly a result of negligence, default or inaction of that party. Justice must be done to both parties equally. Then alone the ends of justice can be

achieved. If a party has been thoroughly negligent in implementing its rights and remedies, it will be equally unfair to deprive the other party of a valuable right that has accrued to it in law as a result of his acting vigilantly. The application filed by the applicants lack in details. Even the averments made are not correct and ex facie lack bona fide. The explanation has to be reasonable or plausible, so as to persuade the Court to believe that the explanation rendered is not only true, but is worthy of exercising judicial discretion in favour of the applicant. If it does not specify any of the enunciated ingredients of judicial pronouncements, then the application should be dismissed. On the other hand, if the application is bona fide and based upon true and plausible explanations, as well as reflect normal behaviour of a common prudent person on the part of the applicant, the Court would normally tilt the judicial discretion in favour of such an applicant. Liberal construction cannot be equated with doing injustice to the other party.”

6. In the case of ***Brijesh Kumar & Ors. v. State of Haryana & Ors.***, reported at ***AIR 2014 SC 1612***, the Apex Court has held as under:

“11. The courts should not adopt an injustice-oriented approach in rejecting the application for condonation of delay. However the court while allowing such application has to draw a distinction between delay and inordinate delay for want of bona fides of an inaction or negligence would deprive a party of the protection of Section 5 of the Limitation Act, 1963. Sufficient cause is a condition precedent for exercise of discretion by the Court for condoning the delay. This Court has time and again held that when mandatory provision is not complied with and that delay is not properly, satisfactorily and convincingly explained, the court cannot condone the delay on sympathetic grounds alone.”

7. Applying the settled law to the facts and circumstances of the present case, we find that the appellant has failed to either plead or establish

“sufficient cause” for the condonation of inordinate delay. The application does not disclose as to whether the illness of the appellant/applicant was such that prevented him from filing the present appeal. The application also does not disclose as to whether at any point the appellant/applicant or his wife were either hospitalized or were bed ridden. The application further does not disclose as to whether besides the applicant he has support of other family members or not. The application is devoid of any material particulars as no dates have been mentioned in the application. Thus, in our view, delay has not been explained satisfactorily. We find no grounds to entertain the application. Accordingly, the application is dismissed.

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8. Since the application seeking condonation of delay has been dismissed, the appeal is also dismissed.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

SEPTEMBER 24, 2018//rb