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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 5th February, 2018

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RFA 989/2016 & CM APPL. 46708/2016 (stay)

M/S ORIENTAL INSURANCE COMPANY
LIMITED

..... Appellant

Through: Mr. Saurabh Verma, Advocate.
(M:8860625759)

versus

M/S ASB AGRO EXPORTS P LTD

..... Respondent

Through: Mr. Santosh Kumar Pandey,
Advocate. (M:9871206374)

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh. J. (Oral)

CM APPL. 46709/2016 (delay) in RFA 989/2016

1. This is an application seeking condonation of delay of 232 days in filing the present appeal. The impugned judgment is dated 13th January 2016. Admittedly, certified copy was received in less than four weeks after the judgement. However, the appeal was filed in November 2016. The reason given for delay is contained in paragraphs 3 & 4 is set out below:

“That the delay which has happened in the filing of the appeal is neither intentional nor deliberate but due to the reason that the appellant is having the head office at Delhi and from the concerned department the counsel could not get the instructions on time.

That the previous counsel who was handling the case before the Ld. Trial court had applied for the certified copy of the impugned judgment and could receive the copy of judgment only on 09.02.2016 and when the

copy of judgment was received it was sent to the concerned department of insurance company to get their opinion and thereafter it was sent from the legal department to the concerned panel lawyers for their further and necessary opinions and when the undersigned counsel received the file from the insurance company he immediately drafted the appeal and sent it back to the insurance company for their approval and made necessary changes if required. After receiving the file from the office of insurance company the counsel filed the appeal before this Hon'ble Court and in all this process it caused the delay of 232 days in preferring this appeal before this Hon'ble court, hence this application seeking condonation of delay of 232 days in approaching this Hon'ble court.”

2. As per the judgment of Supreme Court in ***Postmaster General & Ors. v. Living Media India Limited & Anr. (2012) 3 SCC 563*** delay in respect of departmental delays in government offices is not liable to be condoned. The Supreme Court held as under:

“28. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bonafide, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody including the Government.

29. In our view, it is the right time to inform all the

government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bonafide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red-tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few.”

3. In view of the binding judgment of the Supreme Court, application for condonation of delay is dismissed.
4. The appeal also stands dismissed. Decretal amount lying in this Court is released in favour of Respondent. Miscellaneous application also stands disposed of.
5. List before the Registrar on 15th February 2018 for release of amount in favour of Respondent.

PRATHIBA M. SINGH
Judge

FEBRUARY 05, 2018/dk