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

% *Date of decision : 22nd July, 2019*

+ LPA 446/2019 and CM Nos. 31116-31117/2019

ALOK GUPTA & ORS Appellants
Through: Mr. Nikhil Malhotra and
Mr. Vinod Malhotra, Advs.

versus

STATE OF NCT DELHI & ORS Respondents
Through: Ms. Saumya Tandon, Adv. for
R-1, 3 and 5
Ms. Mansi Gupta, SC for R-4/North MCD
Mr. B. Mohapatra, Adv. for R-6

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER

D.N. PATEL, CHIEF JUSTICE (ORAL)

CM No. 31117/2019 (condonation of delay)

1. This application has been preferred under Section 5 of the Limitation Act for condonation of delay in refiling the appeal.

2. Having heard learned Counsels for both sides and looking to the reasons given in the application, there are reasonable reasons for

condoning the delay. We, therefore, condone the delay in filing the appeal.

3. The application is allowed and disposed of.

CM No. 31116/2019 (exemption)

4. Exemption allowed, subject to all just exceptions.

5. The application is disposed of.

LPA 446/2019

1. This appeal has been preferred challenging the order dated 26th March, 2019 (Annexure-A to the appeal) passed by the learned Single Judge in W.P.(C) 7524/2016.

2. The appellants are original petitioners who have preferred a writ being W.P.(C) 7524/2016 for restraining the respondents from raising the wall. The site plan is given at page 102 of the appeal.

3. Looking to the facts and circumstances of the case, it appears that the main grievance of the appellants (original petitioners) is about the construction of the wall as stated at page 102. The appellants are the shop owners who are worried about the width of the road left out after the wall is constructed. We see no reason to entertain this appeal

mainly for the reason that looking to the site map filed with counter affidavit at page 102 by the Respondent No.3 in the writ petition, there is a road of 4.5 mtrs. between the wall and the shop. It appears that the respondents have kept proper margins between the road and the wall constructed for the purpose as stated in the counter affidavit filed by the Respondent No.3.

4. The gates have also been mentioned at page 102 in the site plan which are A, B, C, D and E. Thus sufficient number of gates are already installed and sufficient is the width of the road between the wall and the shop. These aspects of the matter have been properly appreciated by the learned Single Judge while deciding W.P.(C) 7524/2016 and we see no reason to interfere with the reasoning given by the learned Single Judge. Hence, there is no substance in this appeal and the same is hereby disposed of.

CHIEF JUSTICE

JULY 22, 2019/kr

C. HARI SHANKAR, J.