

\$~46(2021)

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

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Decision delivered on: 07.10.2021

+ **RFA(OS) 16/2021**

AMIT GUPTA

..... Appellant

Through: Ms. Vibha Datta Makhija, Senior Advocate with Mr. A.P. Dhamija, Mr. J.P.Singh and Ms. Tanya Sharma, Advocates.

versus

ARUN KUMAR GUPTA & ORS.

..... Respondents

Through: Mr. Harshit Gupta, Advocate for R-2 to R-4.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE TALWANT SINGH

RAJIV SHAKDHER, J. (ORAL):

[Court hearing convened via video-conferencing on account of COVID-19]

CM No. 19768/2021 *Application filed on behalf of the appellant/defendant no.1 for condonation of delay of 264 days, in filing the present appeal]*

1. This is an application seeking condonation of delay.
2. The instant appeal has been preferred against a judgement of the learned single judge, dated 12.03.2019, passed in CS (OS) No.207/2018.
- 2.1 Via the impugned judgement, the appellant, who was arrayed as

RFA (OS) 16/2021

Page 1 of 3

defendant no.1 in the aforementioned partition suit, has been accorded 2/7th share, whereas the other parties in the said suit, who are his siblings, would receive 1/7th share in the suit property.

2.2. Pertinently, the siblings, include three sisters.

3. Although, the argument put forth on behalf of the respondents is that, the impugned judgement and decree were passed with the consent of the parties, Ms. Vibha Datta Makhija, learned senior counsel, who appears for the appellant/defendant no.1, contends to the contrary.

3.1. However, in our view, this aspect of the matter, need not to be examined, in view of the fact that, there is no viable explanation given, which would persuade us to condone the delay of 264 days.

3.2 Qua condonation of delay, the assertion made by the appellant/defendant no.1 is that, he is a layperson and was not aware of the law of land.

3.3 The other reason given by the appellant/defendant no.1 is that, his daughter is pursuing law, and because she is interested in legal research she discovered that, the impugned judgement was flawed, both on facts and in law, which propelled him to file an appeal, albeit, after much delay.

3.4. In our view, these are not good enough reasons for condoning the delay, as huge as, 264 days.

3.5. It is important to note that, the appellant/defendant no.1.was represented by a lawyer in the aforementioned partition suit, and thus, had access to legal advice.

3.6. Even before us, the appellant/defendant no.1, on each date, has been

represented by seasoned lawyers.

4. For the reasons given hereinabove, the above-captioned application is dismissed.

RFA(OS) 16/2021

CM APPL. 19766/2021*[Application filed on behalf of the appellant/defendant no. 1 seeking stay on the operation of the impugned judgement dated 12.03.2019]*

& CM APPL. 19770/2021 *[Application filed on behalf of the appellant/defendant no. 1 seeking exemption from filing decree sheet]*

5. In view of the order passed in CM No.19768/2021, the appeal has been rendered infructuous, and is, accordingly, dismissed. Consequently, pending applications shall also stand closed.

RAJIV SHAKDHER, J

TALWANT SINGH, J

OCTOBER 7, 2021/mr

[Click here to check corrigendum, if any](#)