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

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Judgment delivered on: 20.01.2023

+ CM(M) 42/2023

ROYALGOLF LINK CITY PROJECTS PVT LTD & ORS.

..... Petitioners

versus

TIMES INNOVATIVE MEDIA LTD.

..... Respondent

Advocates who appeared in this case:

For the Petitioners : Mr. Kunal Awana, Mr. Prateik Gaur and
Mr. Pranav Gupta, Advocates.

For the Respondent : None.

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

TUSHAR RAO GEDELA, J. (ORAL)

[The proceeding has been conducted through Hybrid mode]

1. Petitioner challenges the order dated 17.11.2022 in CS (COMM) 1/20 titled "*Times Innovative Media Ltd. Vs Royal Golf Link City Projects Pvt. Ltd.*", whereby the learned Trial Court has dismissed the application seeking condonation of delay in filing the written statement on behalf of the petitioner Nos. 1 to 3, who were the defendants before the learned Trial Court, as a result the right to file written statement also was closed.

2. Learned counsel submits that the delay which has occasioned is only of five days and was due to the reasons of intermediate festivals having intervened and the detailed ledger account, which were required

to be looked into for filing the written statement, apart from the fact that there was a theft in the office of the petitioner, disabled the petitioner from filing the written statement on time.

3. Learned counsel submits that though no doubt, this is a Commercial Suit, yet the delay is not such, that it cannot be condoned. He submits that in the interests of justice, the exercise of jurisdiction for condonation of such a small delay could have been undertaken by the learned Trial Court.

4. Learned counsel relies upon the judgment of the Supreme Court in *Prakash Corporates vs. Dee Vee Projects Limited* reported as (2022) 5 SCC 112, to submit that the Supreme Court had in a similar Commercial Suit, condoned the delay in filing the written statement.

5. This Court has considered the submissions made by the learned counsel, perused the impugned order, as also examined the judgment rendered by the Supreme Court in *Prakash Corporates (supra)*.

6. It is an admitted case that this suit, wherefrom the present impugned order has been challenged, is a Commercial Suit covered under the Commercial Courts Act, 2015.

7. As per the amendments carried out in the Code of Civil Procedure, 1908, the limit provided to a defendant facing litigation under the Commercial Courts Act, is 30 days, which is extendable to a maximum period of 120 days.

8. This Court in the case of *Machine Tools Aids India vs. M/S. GNC Infra LLP & Anr.* Neutral citation No. 2023/DHC/000160, has already held that the timelines prescribed by the amendments carried out by virtue of Commercial Courts Act are strict and are mandatory.

9. It has further been held in *Machine Tools (supra)* that the time of outer limit of 120 days from the date of service shall be taken as mandatory and not directory and, therefore, requests for condonation of delay beyond 120 days shall not be entertained by the Commercial Court.

10. The judgment of the Supreme Court in *Prakash Corporates (supra)* is not applicable to the present case on facts simply because the Supreme Court in the said case was examining the extension of time during the COVID period and as covered under the judgment of the Supreme Court in *Suo Motu Writ Petition 3/2020* “in Re : Cognizance for extension of limitation”.

11. Having regard thereto, though the delay occasioned in the present facts of the case is only five days, yet for the reasons that the timelines prescribed have been held to be mandatory, this Court is unable to interfere in the impugned order.

12. The impugned order, therefore, is upheld and the present petition is dismissed with no order as to costs.

13. The learned Trial Court is directed to proceed in accordance with law.

TUSHAR RAO GEDELA, J .

JANUARY 20, 2023/nd