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IN THE HIGH COURT OF DELHI AT NEW DELHI

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LPA 371/2023

DELHI DEVELOPMENT AUTHORITYAppellant

Through: Ms.Kritika Gupta, Adv.

versus

DEV RAJ

.....Respondent

Through: Mr.R.K.Saini, Adv.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

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06.11.2024

CM APPL. 19989/2023 (delay of 310 days (F))

1. This is an application filed by the appellant seeking condonation of 310 days' delay in filing the appeal.
2. We may note that the appeal has been filed to assail the order dated 21.04.2024 passed by the learned Single Judge in W.P.(C)1814/2022, vide which the writ petition preferred by the respondent has been allowed by directing that the conditions stipulated in the conveyance deed, which restrained him from selling the flat by way of a sale deed/ agreement to sell for a period of five years from the date of restoration or allotment, could not be made applicable to him.
3. Before we delve into the reasons set out in the application for seeking condonation of this inordinate delay of 310 days, we may note that it is the respondent's specific stand before us that taking benefit of the impugned order, he has on 13.04.2023 sold the subject flat to a third party for valid consideration. This position is not denied by the



appellant. It is in the background of this admitted factual position that the subject flat already stands sold to a third party for valid consideration that we are proceeding to deal with the reasons set out in the application.

4. In support of the application, learned counsel for the appellant submits that the delay in filing of the appeal on part of the appellant was *bonafide* and was on account of the mandatory requirement for the appellant to follow the laid down procedure before filing an appeal, which included taking prior approval of the In house Appeal Committee of the appellant. She submits that though the impugned judgment was delivered on 21.04.2022, the case file was received by the legal department of the appellant only on 25.08.2022, whereafter, the matter could be placed before the Appeal Committee on 07.10.2022. Based on the recommendations of the Appeal Committee, a decision was taken to file an appeal and consequently she was engaged for filing the same with the case file being entrusted to her on 13.12.2022.
5. The appeal could, however, still not be filed immediately as she herself had to travel to Bengaluru due to some personal exigencies. It is only upon her return from Bengaluru on 10.01.2023 that efforts were made to file the appeal, which could be ultimately filed only on 06.03.2023 after getting the same vetted from the concerned officers. However, the appeal could still not be listed before the Court till 21.04.2023 as certain objections were raised by the Registry, which objections the appellant was able to remove only on 20.04.2023. She, therefore, contends that in the light of these steps which were required



to be taken to file and have its appeal listed before this Court, the delay cannot be said to be willful and, therefore, prays that the same be condoned.

6. On the other hand, learned counsel for the respondent opposes the application and submits that, the reasons furnished by the appellant itself show that the appellant has acted in a most callous manner and, therefore, prays that the application be dismissed. He further contends that in any event, now that the impugned order stands worked out as the respondent, in accordance with the findings rendered in the impugned order making it clear that there was no bar on him from selling the property, has already sold the property to a third party for valid consideration, the present appeal is liable to be dismissed as having been rendered infructuous.
7. Having considered the submissions of learned counsel for the parties and perused the record, we are of the view that even though the appellant may be justified in urging that it was required to seek approval of its 'In house' Appeal Committee before filing the appeal as also to get the draft appeal prepared by its counsel, vetted by the competent officer, this alone would not be sufficient explanation for the inordinate delay of 310 days in filing the appeal. In our view, the conduct of the appellant and the lethargy shown by it at every step, right from the stage when the case was put up before the Legal Department to the stage when objections pointed out by the Registry were removed, it is evident that the appellant has been most negligent in filing and pursuing the appeal. We are, therefore, of the considered opinion that the reasons furnished by the appellant cannot be



considered as sufficient grounds for condoning this inordinate delay.

8. Furthermore, it is an undisputed position that by taking benefit of the impugned order, which was not challenged for almost eleven months, the respondent already sold the property to a third party for valuable consideration. In the light of this position, we are of the view that entertaining the appeal at this belated stage, when the impugned order itself stands worked out, will cause grave hardship to the rights of the third party to whom the property already stands sold by the respondent. Consequently, we are of the view that the delay in filing the present appeal does not deserve to be condoned.

9. The application is, accordingly, dismissed in the aforesaid terms.

LPA 371/2023 & CM APPL. 19990/2023 (stay)

10. In view of the order passed hereinabove, the appeal alongwith the pending application stands disposed of as being barred by limitation.

REKHA PALLI, J

SAURABH BANERJEE, J

NOVEMBER 6, 2024

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