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

+ **RFA 161/2022**

SHRI KRISHAN KUMAR

.....Appellant

Through: counsel for appellant (appearance not
given)

versus

SMT. RACHNA SHARMA & ANR.

.....Respondents

Through: Mr. Krishan Kumar and Mr. Shivam
Bedi, Advocate
Ms. Kritika Gupta, Advocate for R2

CORAM:

HON'BLE MR. JUSTICE GIRISH KATHPALIA

ORDER

28.01.2025

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[Physical Hearing/Hybrid Hearing (as per request)]

**CM APPL. 5044/2025 (for condonation of delay of 30 days in filing of
review petition) & REVIEW PET. 42/2025 (of order dt. on 18.10.2024)**

1. The applicant seeks review of order dated 18.10.2024. I have heard learned senior counsel for the review applicant at length but find that in the name of review, the applicant seeks to reargue the matter. However, it would also be necessary to take on record that order date 18.10.2024 suffers vice of typographical error in the sense that the date 06.09.2019 has been type written as 06.07.2019.

2. The order sought to be reviewed being dated 18.10.2024, the review application ought to have been filed by 17.11.2024 but the same has been filed much belatedly on 16.12.2024 and the explanation advanced is that the review applicant was awaiting some information sought from Registry of



this Court under the RTI Act. But even that information was received on 22.11.2024 as per record.

3. So far as the merits of the review application are concerned, it would be apposite to extract order dated 18.10.2024 for ready reference.

RFA 161/2022, CM APPL. 19299/2022 (interim order) & CM APPL. 19301/2022 (delay in re-filing the appeal)

1. Title of the present application is *qua* condonation of delay of 10 days in re-filing after removal of objections, but in the prayer clause, the period of delay in re-filing is mentioned as 718 days. Learned counsel for respondents pointed out that even the said period of delay is not correct as there was a delay of 869 days in re-filing. Generally, this court is liberal while considering the condonation of delay in re-filing an appeal.

2. But there is much more to it. There is also a delay in filing the appeal, for which there is no explanation, what to say of a formal application for condonation of delay.

3. The judgement and decree impugned in the present appeal being dated 07.06.2019 whereby suit for declaration, cancellation and injunction was dismissed, the limitation period to file this appeal expired on 06.07.2019. But according to the filing logs, the appeal was filed on 14.01.2022 and till 19.04.2022, the defects raised by the Registry were rectified. The period of Covid pandemic commenced in March, 2020. There is no explanation as to why the appeal was not filed during the period from 06.07.2019 to March, 2020. Even the certified copy of the impugned judgment shows that it was ready on 20.06.2019 and going by that also, the appeal is time barred with no explanation offered by the appellant.

4. Learned counsel for appellant sought to place reliance on pdf page 16-17 of the paperbook, which is the list of objections and according to the same an appeal was filed on 04.09.2019. But that objection sheet does not appear to be the objection sheet related to the present case since the diary no. mentioned on the same (928324/2019) is different from the diary no. of the present appeal (50582/2022).

5. ***Despite such circumstances, learned counsel for appellant was offered adjournment so that he may move an appropriate application for condonation of delay but he did not accept the offer.***

6. ***Since neither any application for condonation of delay in filing the appeal has been filed nor even the offer for time to file the same is accepted on behalf of appellant, there is no option, so the appeal as well as pending applications are dismissed as time barred.***

(emphasis supplied)



4. In nutshell, the order impugned by way of the first appeal being dated 07.06.2019, the appeal ought to have been filed by 06.09.2019, but the same was filed on 14.01.2022. Claim of the review applicant is that earlier, on 04.09.2019, the appeal was filed and the same was returned under objections but thereafter, physical filing stopped, so the appeal was filed afresh electronically on 14.01.2022. As per RTI information annexed with the present application, physical filing stopped on 14.03.2022. There is absolutely no explanation as to why the appellant kept sleeping over the issue from 04.09.2019 till 14.03.2022. Not only this, as recorded above, on 18.10.2024 the counsel for the applicant was even offered adjournment so that he could move appropriate application for condonation of delay, but he did not accept the offer, so the court had no option but pass the detailed order.

5. Learned senior counsel for applicant contends that what was filed on 04.09.2019 was not taken further and what was filed on 14.01.2022 was only a matter of re-filing. I am unable to accept this contention in view of above circumstances.

6. Apart from the above mentioned typographical error qua the date of expiry of limitation being 06.09.2019 instead of 06.07.2019, I find no error apparent on the face of record and even that typographical error of the date would not have bearing on the final outcome of order dated 18.10.2024.

7. Therefore, the review application as well as the application for condonation of delay are dismissed.

GIRISH KATHPALIA, J

JANUARY 28, 2025/as

Click here to check corrigendum, if any