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

% ***Date of decision: 18th July, 2024***

+ CM(M) 2493/2024 & CM APPL. 26506/2024 & CM APPL.
37901-37902/2024

VIJAY VARDHAN DAGA

.....Petitioner

Through: Mr. Gaurav Gupta with Ms. Ridhima
Purohit, Mr. Gyandendra Singh and
Ms. Anisha Jain, Advocates.

versus

M/S LORD BUILDERS PVT LTD & ORS.

.....Respondent

Through: Mr. Rajesh Aggarwal with Mr.
Amrender Ray, Adv for R1 & R2

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Mr. Rajesh Aggarwal, learned counsel for respondent appears through video conferencing.
2. Admittedly, the appeal which had been filed by the petitioner herein before the Court of learned ADJ-02 (N-W), Rohini Courts, Delhi was dismissed solely on the ground that there was a delay of five days and that no justifiable reason had been explained by the petitioner. It also observed that the delay of even one day can be said to be fatal, if no justifiable reason is provided.
3. It is apprised that the petitioner is 79 years of age and is based in Hyderabad. Despite making best efforts, he could not lodge the appeal within



the stipulated period. It is contended that it will be travesty of justice if in the given facts and circumstances, the delay is not condoned.

4. Mr. Rajesh Aggarwal, learned counsel for respondent has though opposed the petition but has left it to the Court to pass appropriate orders.

5. Keeping in mind the overall facts and circumstances of the case, this Court finds it appropriate to exercise its power under Article 227 of the Constitution of India. Quite apparently, the delay which was merely of 05 days should have been condoned, at least, keeping in mind the fact that petitioner was not resident of Delhi. Moreover, the endeavor of the Court should be to decide the matter on merits, instead, of, on technicalities.

6. Accordingly, the present petition is allowed.

7. Consequently, the appeal which had been filed before the Court of learned ADJ-02 (N-W), Rohini Courts, Delhi stands restored and delay in lodging the aforesaid appeal also stands condoned.

8. The parties would appear before the said Court on 23.07.2024 at 2:00 p.m.

9. Needless to say, till then, no coercive action be taken in the execution petition.

10. The present petition stands disposed of in aforesaid terms.

11. Order *dasti* under the signatures of Court Master.

(MANOJ JAIN)
JUDGE

JULY 18, 2024/sw