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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ C.R.P. 218/2024 & CM APPL. 40592/2024 & CM APPL.
40593/2024
KASHYAPI INFRASTRUCTURE PVT. LTD. AND ANR.

.....Petitioners

Through: Appearance not given

versus

K.D.K. ENTERPRISES PVT. LTD. AND ANR.Respondents

Through: None

CORAM:
HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER
22.07.2024

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CM APPL. 40594/2024 (Seeking condonation of delay in filing the revision petition)

1. The instant application under Section 151 of the Code of Civil Procedure, 1908 (hereinafter "CPC") has been filed on behalf of the petitioners/applicants seeking condonation of delay in filing the instant revision petition.
2. Learned counsel appearing on behalf of the petitioners/applicants submitted that the petitioners' application filed under Order VII Rule 11 of the CPC was dismissed by the learned Trial Court vide the impugned order dated 27th September, 2019.
3. It is submitted that it was only on 24th April, 2023 that it was



informed by the learned Trial Court that the impugned order has been passed and thereafter, the petitioners applied for a certified copy of the impugned order vide application dated 27th July, 2023.

4. It is submitted that since the subsequent orders in the civil suit, which are placed on record, reflect that the petitioners' application filed under Order VII Rule 11 of the CPC is pending for disposal, there was no reasons to believe that the aforesaid impugned order has already been passed by the learned Court below.

5. It is submitted that the petitioners could not obtain the certified copy of the impugned order and applied for the permission of the learned Trial Court to conduct an inspection of the case file on 27th May, 2023. It is submitted that after the inspection of case file, the petitioners noted the contents of the impugned order and thereafter, immediately filed the revision petition.

6. It is submitted that the delay of 1641 days on the part of the petitioners is *bona fide* as the petitioners took legal recourse as soon as they had the knowledge about passing of the impugned order.

7. Therefore, in view of the foregoing submissions, it is prayed that the instant application may be allowed and the reliefs be granted as prayed for.

8. Heard the learned counsel appearing on behalf of the petitioners and perused the material placed on record.

9. It is a settled position of law that in order to condone a delay, more specifically inordinate delay, the party seeking such condonation has to show that the reasons behind the said delay are *bona fide* and reasonable. The party must show that they were not sleeping on their rights and were vigilante, and it is only after thorough due diligence that the delay could not



be prevented.

10. In one of its recent judgments namely *Pathapati Subba Reddy v. LAO*, 2024 SCC OnLine SC 513, the Hon'ble Supreme Court categorically observed that the power to condone delay has to be dealt with in a peculiar manner by taking into consideration the rights that gets created in favour of the other party on account of the other party not taking the legal recourse within the stipulated time period. The Hon'ble Court also noted that upon expiry of the limitation period to file an appeal, the decree-holder gets vested with a substantive right which must not be disturbed and that the decree holder treats the decree to be binding with the lapse of time and may proceed on such assumption creating new rights.

11. The petitioners have submitted vague and legally untenable grounds in order to seek condonation of delay, wherein, it has been contended that *firstly* they were not aware about the impugned order being passed, *secondly*, they could not obtain the certified copy and that they could only file the captioned revision petition after they noted the contents of the impugned order through file inspection.

12. In light of the facts of the instant case, this Court is of the view that the petitioners have failed to remain vigilant in asserting their rights before the Court of law and merely stating that they were not aware about the impugned order being passed as the subsequent orders reflect that their application was still pending is not a reasonable and sufficient ground to condone the inordinate delay of 1641 days.

13. It is held that the petitioners had sufficient time to take the appropriate legal recourse, had they remained aware and cautious about their rights, however, they have approached this Court at a very belated



stage, i.e., after a lapse of unjustifiable time period.

14. It is observed that the impugned order was passed in the year 2019 and the petitioners' case is that they got the knowledge of the same in the year 2023. With regard to the same, this Court is of the considered view that the reasons provided by the petitioners do not seem to be reasonable and *bona fide*, rather, the same is an afterthought and misuse of process of law as the conduct of the petitioners shows that they were not diligent in exercising their legal rights.

15. Therefore, this Court is not inclined to exercise its powers to condone the inordinate delay of 1641 days as the petitioners have approached the Court after the lapse of statutory limitation period which is in complete disregard to the statutory mandate of law as well as the position of law settled by the Hon'ble Supreme Court.

16. In view of the aforesaid facts and circumstances, this Court does not find any cogent reasons to allow the instant application seeking condonation of delay in filing the captioned revision petition.

17. Accordingly, the instant application stands dismissed.

C.R.P. 218/2024

In view of the order passed in CM APPL. 40594/2024 on the even date, the instant revision petition also stands dismissed along with the pending applications, if any.

CHANDRA DHARI SINGH, J

JULY 22, 2024
gs/ryp

Click here to check corrigendum, if any