



\$~64

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

% ***Date of decision: 31st July, 2024***

+ CM(M) 3019/2024 & CM APPL. 41709-41710/2024

SENBO ENGINEERING LIMITEDPetitioner

Through: Mr. Kartickay Mathur, Advocate.

versus

NEW ERA PROJECTS & ANR.Respondents

Through: Mr. Rakesh Malhotra with Mr. Bharat Malhotra and Mr. Kushal Malhotra, Advocates for respondent No.1

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. The Challenge in the present petition is to the order dated 03.06.2024, passed by the learned Trial Court whereby the review application filed by the petitioner has been dismissed.
2. I have gone through the impugned order very carefully.
3. One suit had been filed by respondent herein i.e. M/s New Era Project against M/s. Senbo Engineering Limited and two others.
4. Such suit was eventually decreed by the learned Trial Court on 31.05.2017.
5. It is not a case where the defendant Company (petitioner herein) was not served or was not represented. On the contrary, as per



the observations appearing in the judgment, itself, there was due appearance from the side of the defendants and they even filed written statement and controverted the stand taken in the plaint. The issues were also framed by the learned Trial Court.

6. With respect to the issue relating to limitation, the onus was put on the defendant. The learned Trial Court, in its judgment dated 31.05.2017, noted that no evidence had been led by the defendant to establish that the suit was barred by limitation. It is apprised that when the plaintiff entered into witness box, his evidence remained uncontroverted and unchallenged as there was no cross-examination. After taking note of various aspects of the case and taking note of the documents exhibited during trial, the suit was decreed.

7. The petitioner herein, who has suffered the aforesaid decree, filed a petition seeking review under Order XLVII read with Section 151 CPC.

8. Such application was filed after a delay of 5 years which, on the face of it, is completely unexplained. An Attempt has been made to portray as if the defendant Company was never aware about the decree as its counsel never informed about the same. It has also been claimed in the review application and the application seeking condonation of delay that the defendant had been diligently contesting the suit filed by the plaintiff.

9. However, the facts on record portray a different picture altogether.



10. I have seen the impugned order dated 03.06.2024 and it is noticed that the learned Trial Court was also conscious about the astronomical delay in filing the review application and keeping in mind the bald averments made in the application, the delay was not condoned. At the same time, learned Trial Court also took note of the merits of the case and was of the view that the question of the limitation also did not arise.

11. Be that as it may, the petitioner herein is itself to be blamed for its miseries for not diligently pursuing the matter when it was pending trial.

12. The review application moved in the above said factual matrix, which had been filed after 5 years of the decree, was rightly not entertained by the learned Trial Court.

13. Viewed thus, I do not find merit in the present petition. The same is hereby dismissed.

(MANOJ JAIN)
JUDGE

JULY 31, 2024
st