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

+ **RFA 930/2023**

RAJESH KUMAR JAIN

..... Appellant

Through: Ms.Aashi Jain, Advocate

versus

SURBHI VIRMANI

..... Respondent

Through: Mr.Mudit Sood and Mr.Udit Grover,
Advocates

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

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25.04.2024

CM APPL. 60332/2023 (Delay)

1. The instant application under Section 5 of the Limitation Act, 1963 read with Order XLI Rule 3A(I) and Section 151 of the Code of Civil Procedure, 1908 has been filed on behalf of the applicant/appellant seeking condonation of delay in filing the captioned appeal.

2. Learned counsel appearing on behalf of applicant/appellant vehemently submitted that the appellant is facing financial crisis and due to the inadequate source of income, he was unable to pay the legal fees to his Counsel for filing of the present appeal. It is further submitted that in accordance with the Code, the decretal amount was required to be deposited in order to seek a stay for the operation of the impugned judgment and decree dated 7th December, 2018. Furthermore, the appellant being layman was not well aware about the provisions of laws and remedies available to



him. Therefore, the aforementioned cause prevented the appellant from filing the accompanying appeal within the time limit specified in the Code.

3. It is submitted that due to the above said reasons, the delay of 1854 days has occurred in filing the captioned appeal, the reasons for which are *bona fide* and establish sufficient grounds for condonation of delay in the interest of justice.

4. Therefore, in view of the foregoing submissions, it is prayed that the instant application for condonation of delay may be allowed and the delay of 1854 days may be condoned as the appellant has a good case on merits.

5. *Per contra*, learned counsel appearing on behalf of the non-applicant/respondent vehemently opposed the present application submitting to the effect that the present application has been filed at a belated stage and same being devoid of any merit is liable to be dismissed. It is submitted that the instant appeal has been filed after approximately 4 years 11 months and 3 weeks and no sufficient cause is being shown in the instant application for condoning the inordinate delay of 1854 days. He has also referred to paragraph 5 of the instant application which states insufficient cause. Therefore, the contentions advanced by learned counsel for the petitioner seem to be vague and unreasonable.

6. In view of the foregoing submissions, learned counsel appearing on behalf of the non-applicant/respondent submitted that the delay of 1854 days may not be condoned and accordingly, the instant application, being devoid of any merit, is liable to be dismissed.

7. Heard learned counsel for the parties and perused the record including the contents of the application and the impugned judgment and decree dated 7th December, 2018 passed by the learned Trial Court as well as considered



the arguments advanced by learned counsel for the parties.

8. Before advertng to the merits of the instant application, this Court deems it imperative to understand the general concept behind the principle of condonation of delay prescribed under the Limitation Act, 1963 (“the Act” hereinafter) and also settled by the Hon’ble Supreme Court as well as various High Courts.

9. Under Section 5 of the Act, the legislature has conferred discretionary powers upon the Courts to condone delay if it is satisfied that there exists a sufficient cause for filing an application for such delay under the Act, in order to do complete justice to the case of the parties.

10. The perusal of the aforesaid provision makes it clear that the party seeking condonation of delay must establish a “*sufficient cause*” in order to adjudicate upon whether or not the delay in pursuing the matter may be condoned by the Court or not. Therefore, the said party seeking condonation of delay must first satisfy the Court that there exists a “*sufficient cause*”.

11. In ***Pathapati Subba Reddy v. LAO*, 2024 SCC OnLine SC 513**, the Hon’ble Supreme Court reiterated the principle regarding the interpretation of the said term and held as under:-

"...17. It must always be borne in mind that while construing 'sufficient cause' in deciding application under Section 5 of the Act, that on the expiry of the period of limitation prescribed for filing an appeal, substantive right in favour of a decree-holder accrues and this right ought not to be lightly disturbed. The decree-holder treats the decree to be binding with the lapse of time and may proceed on such assumption creating new rights."

12. Tersely said, the party seeking condonation of delay must be able to show adequate and *bona fide* reasons which prevented him to approach the



Court within prescribed period of limitation to make out a case for condonation of delay.

13. Applying the principles enunciated in the aforesaid paragraphs, this Court is of the considered view that like any other vigilant citizen, the appellant was expected to assert his rights within a reasonable time and he failed to do the same.

14. In view of the above discussions as well as the ratio of the aforesaid judgment passed by the Hon'ble Supreme Court, it is held that the present application being barred by the inordinate delay of 1854 days is nothing but a gross misuse of process of law and this Court is not inclined to exercise its discretion as the present applicant/appellant has failed to establish any sufficient cause.

15. Accordingly, the application stands dismissed.

RFA 930/2023, CM APPL. 60331/2023 (Stay) & CM APPL. 60334/2023
(Extension of time to deposit Court fee)

In view of the order of even date passed in CM APPL. 60332/2023 seeking condonation of delay of 1854 days in filing the captioned appeal, the instant appeal alongwith the pending applications stands dismissed.

CHANDRA DHARI SINGH, J

APRIL 25, 2024

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Click here to check corrigendum, if any