



\$~28

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO (COMM) 172/2024 & CM APPL.50119/2024 (Exemption)**
SMC NOVA ESTATE PRIVATE LIMITEDAppellant
Through: Mr. Satish Kumar and Mr. Rakesh
Tiwari, Advocates.

versus
SURYA MARKETING COMPANYRespondent
Through:

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MR. JUSTICE SACHIN DATTA

ORDER
30.08.2024

%

FAO (COMM) 172/2024 & CM APPL.50120/2024 (condonation of delay of 110 days in filing the appeal)

1. The appellant has filed the present appeal impugning an order dated 26.03.2024, whereby its application for review of an order dated 28.07.2023 passed under Order XXXIX Rule 2A of the Code of Civil Procedure, 1908 (hereafter *the CPC*), was rejected. The appellant also impugns the said order dated 28.07.2023.
2. The appeal against the order dated 26.03.2024 is not maintainable under Section 13 (1A) of the Commercial Courts Act, 2015, read with Order XLIII Rule 1 of the CPC.
3. The learned counsel for the appellant submits that the present appeal be treated solely as an appeal against the order dated 28.07.2023.
4. It is apparent that the appeal against the said order is hopelessly barred by limitation. The learned counsel for the appellant submits that the appellant had filed an application seeking review of the said order within a period of one month from the date of the said order which was dismissed by



the order dated 26.03.2024 and therefore, the said period may be excluded for the purpose of the limitation. Even if we accept the said contention (which we do not), there is an inordinate delay in filing the present appeal as it has been filed almost five months after the dismissal of the appellant's application for review of the order dated 28.07.2023. There is no explanation for this delay.

5. The application seeking condonation of delay in filing the present appeal is thus rejected.

6. The present appeal is dismissed. The pending application is also disposed of.

VIBHU BAKHRU, J

SACHIN DATTA, J

AUGUST 30, 2024

r