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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Decision delivered on: 02.09.2024+ **RFA(COMM) 359/2024 & CM Nos.50724-25/2024**

M/S NIKUNJ WOODS PVT LTD

.....APPELLANT

Through: Mr Anirudh Gupta and Mr Ashish
Gupta, Advs.

versus

M/S KRISHNA STEEL FURNITURE AND ANR...RESPONDENTS

Through: None.

CORAM:**HON'BLE MR. JUSTICE RAJIV SHAKDHER****HON'BLE MR. JUSTICE AMIT BANSAL****[Physical Hearing/Hybrid Hearing (as per request)]****RAJIV SHAKDHER, J. (ORAL):****CM No.50724/2024**

1. Allowed, subject to just exceptions.

RFA(COMM) 359/2024 & CM No.50725/2024 *[Application filed on
behalf of the appellant seeking condonation of delay of 145 days in filing
the appeal]*2. This appeal is directed against the judgement and decree dated
16.01.2024. The appellant had filed a suit for recovery of Rs.5,78,094/-,
along with interest.3. It is contended by the learned counsel for the appellant that although
on merits the trial court had found in favour of the appellant/plaintiff, the
suit has been dismissed on the ground of limitation.

4. In the context of limitation, the following facts need to be noticed:



- (i) Firstly, it is not in dispute that the suit for recovery was pivoted on the invoice no.427 dated 18.03.2019.
- (ii) Secondly, the last payment against the aforementioned invoice was received by the appellant/plaintiff on 31.10.2019.
- (iii) Thirdly, the limitation period in the ordinary course would have expired in and about 31.10.2022.
- (iv) Fourthly, the mediation proceedings had been undertaken by the parties between 15.09.2022 and 11.11.2022.
- (v) Lastly, the suit for recovery was filed by the appellant/plaintiff on 20.01.2023.

5. The learned trial court, after giving the appellant/plaintiff benefit of the time spent in mediation, concluded that the suit for recovery was barred by limitation.

6. Mr Anirudh Gupta, learned counsel, who appears on behalf of the appellant, says that the trial court did not take into account the judgement of the Supreme Court, rendered in *suo motu* writ petition, i.e. W.P.(C)No.3/2020.

6.1 In this regard, our attention was drawn to the extract of the said judgement.

7. According to us, the submission made by learned counsel for the appellant/plaintiff is flawed. As per W.P.(C)No.3/2020, the limitation was extended up until 28.02.2022 with a proviso that notwithstanding actual balance period of limitation remaining [in cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022] all persons would have a limitation period of 90 days w.e.f. 01.03.2022. The Supreme Court also clarified that where the actual balance period of



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limitation remaining w.e.f. 01.03.2022 is greater than 90 days, that longer period will apply.

8. In this case, as noted above, limitation expired in the normal course in and about 31.10.2022 and, therefore, the above submission cannot be accepted on facts. No error has been pointed out by learned counsel for the appellant/plaintiff concerning limitation.

9. We may note that the above-captioned appeal is also delayed by 145 days.

10. The appeal is without merits and is, accordingly, closed.

11. Parties will act based on the digitally signed copy of the order.

RAJIV SHAKDHER, J

AMIT BANSAL, J

SEPTEMBER 2, 2024

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Click here to check corrigendum, if any