



2024:DHC:9577-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of decision: 09.12.2024*+ RFA(COMM) 530/2024 & CM 72125/2024
YADAV EXHIBITORS (P) LIMITEDAPPELLANTThrough: Mr.Syed Hasan Isfahani,
Ms.Shifa, Mr.Syed Hasan,
Advs.

versus

KARUR VYSYA BANK LIMITEDRESPONDENT

Through: Mr.Mr.Sumeet Batra,
Mr.D.K.Sachar, Adv.**CORAM:****HON'BLE MR. JUSTICE NAVIN CHAWLA****HON'BLE MR. JUSTICE RAVINDER DUDEJA****NAVIN CHAWLA, J. (Oral)****CM APPL. 72123/2024 (Exemption)**

1. Allowed, subject to all just exceptions.

CM APPL. 72126/2024**CM APPL. 72124/2024**

2. CM APPL.72126/2024 has been filed by the appellant seeking condonation of delay of 46 days in filing the present appeal, while CM APPL. 72124/2024 has been filed by the appellant seeking condonation of delay of 536 days in re-filing the present appeal.

3. The present appeal has been filed against the Judgment and Decree dated 31.10.2022 passed by the learned District Judge (Commercial Court)-03, Patiala House Courts, New Delhi in



CS(Comm) No.603/2020 titled ***Karur Vysya Bank Ltd. v. Yadav Exhibitors (P) Ltd. & Anr.***, whereby the suit filed by the respondent as also the counter-claim filed by the appellant herein were dismissed.

4. As far as the relief of condonation of delay in filing the appeal is concerned, the only ground urged by the appellant is that the director of the appellant company, who has been authorized to sign the affidavit, is above 84 years old and is suffering from various ailments and, therefore, could not come to the office of the counsel to sign the affidavit.
5. Curiously, the said application also states as under:

“5. That the registry of this Hon'ble court raised objection on 16.02.2023 all the objection was removed by the counsel of the Appellant but on 04.11.2024 one of the objections was raised by the Registry i.e. the appeal is time barred by limitation. The Present Appeal is being filed after a delay 46 days beyond the period prescribed under law.”

6. Clearly, there is a copy-paste job done in the application. It is also not shown if there was any other authorized officer who could have signed the affidavit for the appellant, which is a Private Limited Company.
7. As far as the humongous delay of 536 days in re-filing of the appeal is concerned, the appellant again relies upon the age of the authorized director of the appellant company. In addition, the appellant states that the office of the learned counsel for the appellant had failed to get the objections raised by the Registry



removed in time and have the appeal listed.

8. Curiously, in the application, it is admitted that the appeal filed by the respondent was listed before this Court for the first time on 18.04.2023. The learned counsel for the appellant had appeared on the said date before the Court. The appeal filed by the respondent has thereafter been listed on a number of occasions. The appellant and its counsel were, therefore, aware that the respondent has availed of its remedy of filing an appeal and in spite of the same, took no steps to have the objections raised by the Registry against the appeal of the appellant removed and to have the appeal listed before this Court. It is only after a delay of almost one and a half years that the present appeal has been finally listed before this Court. Therefore, we see absolutely no justification for condoning the delay in re-filing of the present appeal, though, we are aware that generally, in matters of delay in re-filing, the Courts are more liberal, however, in the present case, the appeal has not been filed by a governmental authority but rather, by a private company. The justification given by the appellant for the delay in removing the defects pointed out by the Registry does not inspire any confidence of this Court. The litigant must be vigilant of its remedies and cannot be allowed to circumvent the law of limitation by a casual approach.
9. We, therefore, do not find any merit in the present applications. They are accordingly dismissed.
10. The appeal is dismissed, both on the account of delay in filing



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and as being barred by limitation, and on account of delay in re-filing the appeal.

NAVIN CHAWLA, J

RAVINDER DUDEJA, J

DECEMBER 9, 2024
RN/SJ

Click here to check corrigendum, if any