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

+ **CM(M) 344/2025**

RAJENDRA PRASAD

.....Petitioner

Through: Mr. Abhay Kumar and Mr. Satish
Kumar, Advocates.

versus

SMT ANITA DEVI & ORS.

.....Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

% **19.02.2025**

CM APPL. 10118/2025 (exemption)

Allowed, subject to all just exceptions.

This application stands disposed of.

CM(M) 344/2025

1. The present petition under Article 227 of the Constitution of India impugns the order dated 25.10.2024, passed by the learned District Judge, whereby, the application filed by the petitioner for condonation of delay in filing the Review Petition bearing RP No. 6/2024, titled "*Rajendra Prasad & Anr. Vs. Anita Devi & Ors.*" has been dismissed.
2. Shorn of unnecessary details, the facts in brief are that respondent No. 1 filed a Summary Suit under Order 37 CPC for recovery of Rs. 55 lakhs along with pendente lite and future interest at the rate of 18% per annum.
3. The application for leave to defend filed by the petitioner and respondents No. 2 & 3 was dismissed by the trial court vide judgment dated



04.04.2022.

4. On 04.03.2024, petitioner filed a review petition under Section 114 & 151 CPC read with Order 47 of the Code of Civil Procedure, 1908 for the review of judgment and decree dated 04.04.2022 along with an application under Section 151 CPC for condonation of delay in filing the review application.

5. The application for condonation of delay came to be dismissed vide order dated 25.10.2024, which has been impugned in the present petition.

6. Learned counsel for the petitioner submits that petitioner was not aware about the prescription of limitation for filing the review petition. It is submitted that petitioner's counsel did not file the review application within time. Thereafter, he engaged a new counsel, who prepared the review petition and filed the same in court.

7. It is further submitted that delay in filing the review petition is neither intentional nor deliberate, inasmuch as, the wife of the petitioner, who is residing at Azamgarh, has been suffering from severe neurological and other ailments and her regular treatment is continuing at Prakash Hospital, Azamgarh, U.P. It is also submitted that the father of the petitioner is a senior citizen and he has also been suffering from multiple ailments including Osteoarthritis. Petitioner being the only person in the family has the sole responsibility to look after his ailing wife and father and has also to manage the financial requirements of the family. Learned counsel further submits that the trial court failed to consider the medical record of the wife and father of the petitioner and also ignored that petitioner has a very good case on merits.

8. Learned counsel, appearing for respondent No. 1, submits that there



has been an inordinate delay of 706 days in filing the review petition and petitioner has miserably failed to explain any sufficient cause for the delay, and therefore, learned trial court has rightly dismissed the application of the petitioner.

9. The necessity for enacting the period of limitation is to ensure that the actions are commenced within a particular period, firstly to assure the availability of evidence documentary as well as oral to enable the court to adjudicate the respective claims, secondly, to give effect to the principle that law does not assist a person who is inactive and sleeps over his rights by allowing them when challenged or disputed to remain dormant without asserting them in a court of law. The principle which forms the basis of this rule is expressed in *maximum vigilantibus, non dormientibus, jura subveniunt* i.e. the laws helps those who are watchful and not to those who sleep over their rights. The object of the Limitation Act is to compel a person to exercise his right of action within a reasonable time as also to discourage and suppress stale, fake or fraudulent claims.

10. No doubt, the Courts take liberal view in the matter of condonation of delay but then before exercising the discretionary power of condoning the delay, the Courts still need to consider as to the existence of sufficient cause for delay. In **Pathapati Subba Reddy (died) by L.Rs. v. The Special Deputy Collector (LA), 2024 SCC OnLine SC 513**, Hon'ble Supreme Court observed as under:-

“16. Generally, the courts have adopted a very liberal approach in construing the phrase ‘sufficient cause’ used in Section 5 of the Limitation Act in order to condone the delay to enable the courts to do substantial justice and to apply law in a meaningful manner which subserves the ends of justice. In *Collector, Land Acquisition, Anantnag v. Katiji*, this Court in



advocating the liberal approach in condoning the delay for 'sufficient cause' held that ordinarily a litigant does not stand to benefit by lodging an appeal late; it is not necessary to explain every day's delay in filing the appeal; and since sometimes refusal to condone delay may result in throwing out a meritorious matter, it is necessary in the interest of justice that cause of substantial justice should be allowed to prevail upon technical considerations and if the delay is not deliberate, it ought to be condoned. Notwithstanding the above, howsoever, liberal approach is adopted in condoning the delay, existence of 'sufficient cause' for not filing the appeal in time, is a condition precedent for exercising the discretionary power to condone the delay. The phrases 'liberal approach', 'justice-oriented approach' and cause for the advancement of 'substantial justice' cannot be employed to defeat the law of limitation so as to allow stale matters or as a matter of fact dead matters to be revived and re-opened by taking aid of Section 5 of the Limitation Act."

11. Petitioner has placed on record the prescriptions of the doctor to show that his wife and father have been suffering from various ailments. The prescriptions of the wife of the petitioner show that she has been suffering from disorders of sleep, appetite, loss of energy, weakness and mood swings. Similarly, the medical prescriptions of the father of the petitioner show that he has been suffering from CAD/HTN/BPH/Osteoarthritis etc. The medical prescriptions do show that the wife and father of the petitioner have been undergoing treatment for certain ailments but these prescriptions do not in any manner indicate that they are suffering from any such ailment which compelled the petitioner to stay at home, resulting in an inordinate delay in filing the review application within the prescribed period.

12. Petitioner has tried to shift blame for the delay caused on the head of the previous counsel. The Courts have noticed over a period of time that there has been a tendency on the part of the litigants to blame their lawyers for negligence/carelessness. The averments regarding the negligence/mistake of the previous counsel are also vague. Even if it is to be assumed for a moment that the concerned lawyer was careless or negligent,



this by itself cannot be a ground to condone wrong and inordinate delay as the litigants also owe a duty to be vigilant of their own rights.

13. While dismissing the application, the learned trial court also took note of the objection of the respondent who had shown from the order sheets of the parallel proceedings in Complaint Case No. 45463/2018 that petitioner had been regularly appearing before the court of Metropolitan Magistrate during the relevant period. Such evidence contradicts the petitioner's claim that he was incapacitated because of health problems of his wife and father. Since he was appearing before the court of learned Metropolitan Magistrate, it cannot be assumed that he is an ignorant person, unaware of his legal rights and had no access to the legal advice. Moreover, Legal Service Authority also provides free legal aid to the litigants.

14. In my view, the learned trial court has rightly concluded that the grounds cited including the alleged ignorance of limitation period, the previous counsel's inaction and medical reasons are unsupported by credible evidence and reflect lack of bona fide intent.

15. I find no illegality or perversity in the impugned order passed by the learned trial court.

16. There is no merit in the challenge to the impugned order. Petition is therefore dismissed.

RAVINDER DUDEJA, J.

FEBRUARY 19, 2025

RM