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

+ **FAO 90/2023**

VINOD KUMAR GARG

.....Appellant

Through: **Mr. Prabhat Ranjan Tiwari,**
Adv.

versus

SURINDER RANA

.....Respondent

Through: **None.**

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER

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20.05.2025

CM APPL. 18661/2023

1. This is an application seeking condonation of delay of 1091 days in filing the present appeal.

2. No one is present for the respondent despite sending advance notice.

3. It is the case of the applicant that his mother expired on 25.12.2019 and her kriya ceremony was performed on 05.01.2020. It is stated that thereafter he could not pursue this matter for being mentally disturbed on account of the illness of his mother and her death. Thereafter, due to the outbreak of Covid-19 pandemic, he had to remain confined in his house and it was only in the month of March, 2023 that he was informed that the respondent had constructed a boundary wall on the subject property, subsequent to which he approached his counsel.

4. It is further stated that due to various personal reasons, he was not able to pursue this matter and avail his remedies. On the face of it,

the application for condonation of delay fails to specify any sufficient

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cause for the belated filing of the present appeal. No reason has been advanced by the applicant/appellant that would show that the delay in filing the present appeal was beyond his control. While the Covid-19 pandemic situation may be a justifiable ground, however, there is no explanation given as regards what prevented the applicant/appellant from filing the present appeal after the situation was brought under control from March, 2022 onwards.

5. Hence, this application is dismissed. Consequently, the appeal should also be dismissed.

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6. Anyhow, additionally it may be noted that the impugned order dated 06.01.2020 passed by the learned ADJ-02 (North) Rohini Courts ('Trial Court'), whereby the application under Order IX Rule 4 of the Code of Civil Procedure, 1908 (CPC) was dismissed, also does not suffer from any illegality, perversity or incorrect approach in law. The suit filed by the appellant herein was dismissed in default on 23.03.2015. Evidently, the application under Order IX Rule 4 of the CPC was moved on 07.09.2018. The learned Trial Court has rightly held that the appellant has put the blame on the previous counsel who allegedly failed to inform him in time about the status of the case but there is an unexplained delay of 400 days in filing the application under Order IX Rule 4 of the CPC for restoration of the suit.

7. In view of the above, the appeal is dismissed.

DHARMESH SHARMA, J.

MAY 20, 2025

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