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

+ RFA 494/2019

S VENUGOPAL

.....Appellant

Through: Ms. Rashmi Baliyan, Adv.

versus

MODI RUBBER LTD

.....Respondent

Through: Mr. Atishi Dipankar, Adv.

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER

% **17.03.2025**

CM APPL. 24350/2019

1. Having heard the learned counsel for the parties present and upon perusal of the record, the present appeal has been filed by the appellant assailing the impugned order dated 31.05.2018, whereby his suit for recovery of ₹24 lakhs against the respondent/defendant with *pendente lite* and future interest has been dismissed.

2. In the present application, the condonation of delay of 130 days in filing the present appeal is sought. It is submitted that the appellant was in a bad condition from May 29, 2018 to January 16, 2019 due to serious illnesses and since the appellant/plaintiff is a resident of Hyderabad, he was unable to come to Delhi for filing this appeal.

3. It is pertinent to mention that the matter came up for hearing before this Court on 28.11.2024, and the learned Single Judge passed the following order:-

“1. The proceedings are listed today for consideration of an application [CM APPL No. 24350/2019], filed by the appellant, for condonation of delay in filing the appeal.

2. Although the prayer in the application has been amended in



hand to reflect a delay of 54 days, Ms. Rashmi Baliyan, learned counsel for the appellant, states that the appeal is, in fact, delayed by 130 days, as stated in paragraph 3 of the application.

3. In this application, the only averment is that the applicant was suffering from a “serious illness” from 29.05.2018 to 16.01.2019. The only document filed in support of this averment is an undated medical certificate issued by one Dr. MD. Rafi, Civil Assistant Surgeon, Osmania General Hospital, Hyderabad. The certificate records that the appellant was suffering from “lower backache”, and reflects that leave of absence from duty may be granted from 29.05.2028 to 16.01.2019.

4. **I am of the view that this medical certificate is inadequate to support the request for condonation of delay of over seven months in filing of the appeal.**

5. The appellant is directed to file a further affidavit, placing on record contemporaneous medical documents including radiological reports, medical prescriptions, other investigative reports etc., to demonstrate that the appellant was suffering from lower backache for such a long period of time. The said affidavit be filed within two weeks from today.

6. List on 17.03.2025.”

4. Learned counsel for the appellant/plaintiff submits that the respondent/defendant is raising an objection to the limitation almost six or seven years after the judgment was passed, and hence, the appellant/plaintiff is not in a position to file an additional affidavit to place on record any contemporaneous medical documents including radiological reports etc. to establish that the appellant/plaintiff had been suffering from lower backache for a very long period of time.

5. A bare perusal of the previous order would show that this Court has already opined that the reasons advanced by the appellant/plaintiff do not constitute sufficient cause for the condonation of a delay of over seven months in filing the appeal.

6. Hence, the present application is dismissed.



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7. In view of the aforesaid reasons, this appeal is dismissed.

DHARMESH SHARMA, J.

MARCH 17, 2025
Ch/Ss