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* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of Decision: 15.05.2025***+ **C.R.P. 244/2023, CM APPL. 15873/2024 & CM APPL. 23614/2025****NARENDER KUMAR WADHWA****.....Petitioner**Through: **Mr. Avadh Bihari Kaushik & Mr. Rishabh Kumar, Advocates.****versus****S KARAN SINGH & ANR.****.....Respondents**Through: **Mr. Sourabh Leekha & Mr. Sanjay Rajput, Advocates for R-1.****CORAM:****HON'BLE MS. JUSTICE TARA VITASTA GANJU****TARA VITASTA GANJU, J.: (Oral)**

1. The present Petition has been filed on behalf of the Petitioner under Section 115 of the Code of Civil Procedure, 1908 [hereinafter referred to as "CPC"] against the order dated 31.07.2023 passed by the learned Additional District Judge-04, North-West District, Rohini Courts, Delhi [hereinafter referred to as "Impugned Order"]. By the Impugned Order, an Application under Section 5 of the Limitation Act, 1963 [hereinafter referred to as the "Limitation Act"] seeking condonation of delay in filing the Appeal was dismissed, and consequently, the Appeal was also dismissed by the learned First Appellate Court.

2. Learned Counsel for the Petitioner submits that the Petitioner had filed an Application under Section 5 of the Limitation Act seeking condonation of delay in filing the Appeal [hereinafter referred to as "Application"]. The reasons as set out in the Application were that the certified copy of the Impugned Order was applied for on 27.08.2018 and



was received on 01.09.2018, having been prepared on 28.08.2018. It is submitted that the limitation period as prescribed in the Limitation Act is 30 days and upon receipt of the certified copy, the Appeal was prepared and filed on 25.09.2018, and thus, the delay of 20 days.

3. Learned Counsel for the Petitioner further submits that the Application for condonation of delay was filed by him in 2018, and thereafter, the matter continued before the learned First Appellate Court for five years, however, the matter was not heard on merits but was dismissed solely on the ground that the Appeal was filed belatedly.

4. None appears for Respondent No.2.

5. Learned Counsel for Respondent No.1, on the other hand, submits that the reason for delay in filing the Appeal, as set out in the Application is that there were certain documents, namely photographs, which were not available with the Petitioner and the ground of non-availability of certified copies has not been taken by the Petitioner in the Application.

6. The contention of the learned Counsel for Respondent No.1 is without merit.

7. The learned First Appellate Court, has in the Impugned Order essentially directed that the Petitioner has failed to give justified or plausible reason for delay in filing the Appeal beyond the prescribed period of limitation and has failed to explain the day-to-day delay in filing the Appeal.

8. It is settled law that the day-to-day delay in filing the Appeal is not required to be explained by the appellant. In the case of **DDA v. Tejpal &**



Ors.¹, the Supreme Court has held that Courts are vested with the discretion to extend the period of limitation if the applicant shows sufficient cause for not preferring the Appeal within the prescribed period. It has been held that what the Courts have to analyse is that “sufficient cause” has been made out and that sufficient cause has been shown for not filing the Appeal ‘within the prescribed period’. It has been further held that it is the explanation for the delay which would be the decisive factor, and the expression “sufficient cause” should be given liberal construction so as to advance substantial justice. It has been further clarified by the Supreme Court that each day's delay till the date of filing such Appeal/application is not required to be proved. The relevant extract of the **DDA** case is reproduced below:

*“25. As is clear from a plain reading of Section 5 of the Limitation Act, there are exceptions to this general rule. The statute allows for admitting an action provided “sufficient cause” is shown. This vests courts with the discretion to extend the period of limitation if the applicant can show that he had sufficient cause for not preferring an appeal or application within the prescribed period. **Section 5 requires analysis of two ingredients : first, an examination of whether “sufficient cause” has been made out; and second, whether such cause has been shown for not filing the appeal/application “within the prescribed period”.***

26. As regards the first ingredient, the Limitation Act itself does not provide more guidance on what its constituent elements ought to be. Instead, Section 5 leaves the task of determining appropriate reasons for seeking condonation of delay to judicial interpretation and exercise of discretion upon the facts and individual circumstances of each case.

27. While there is no arithmetical formula, through decades of judicial application, certain yardsticks for judging the sufficiency of cause for condonation of delay have evolved. Mere good cause is not sufficient enough to turn back the clock and allow resuscitation of a claim otherwise barred by delay. The court ought to be cautious while undertaking such an exercise, being circumspect against condoning delay which is attributable to the applicant. [Basawaraj v. LAO, (2013) 14 SCC 81, paras 9-11] Although the actual period of delay might be instructive, it is the explanation for the delay which would be the decisive factor. [Perumon

¹ (2024) 7 SCC 433



Bhaqvathy Devaswom v. Bhargavi Amma, (2008) 8 SCC 321, para 13]

28. The court must also desist from throwing the baby out with the bathwater. A justice-oriented approach must be prioritised over technicalities, [Raheem Shah v. Govind Singh, (2023) 18 SCC 764 : 2023 SCC OnLine SC 910, para 6] as one motivation underlying such rules is to prevent parties from using dilatory tactics or abusing the judicial process. Pragmatism over pedanticism is therefore sometimes necessary — despite it appearing liberal or magnanimous. The expression “sufficient cause” should be given liberal construction so as to advance substantial justice. [Lonand Grampanchayat v. Ramqiri Gosavi, 1967 SCC OnLine SC 105, para 4.]

29. In addition to “sufficient cause”, Section 5 also requires that such cause must be shown within the prescribed period. To satisfy the latter condition, the applicant must show sufficient cause for not filing the appeal/application on the last day of the prescribed period and explain the delay made thereafter. [Ramlal v. Rewa Coalfields Ltd., 1961 SCC OnLine SC 39, para 8] Causes arising after the culmination of the limitation period, despite being sufficient in substance, would not suffice for condonation given this second prong of Section 5 of the Limitation Act. However, the applicant shall not be required to prove each day's delay till the date of filing such appeal/application. [Ummer v. Pottengal Subida, (2018) 15 SCC 127, para 14 : (2019) 1 SCC (Civ) 113]

[Emphasis Supplied]

9. The Supreme Court in the judgment of ***Pathapati Subba Reddy (Died) By L.Rs. & Ors v. Special Deputy Collector (LA)***² had further clarified that the Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power is discretionary in nature and may not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence. The relevant extract of the ***Pathapati Subba Reddy*** case is reproduced below:

26. On a harmonious consideration of the provisions of the law, as aforesaid, and the law laid down by this Court, it is evident that:

(i) Law of limitation is based upon public policy that there should be an

² 2024 SCC OnLine SC 513



end to litigation by forfeiting the right to remedy rather than the right itself;

(ii) A right or the remedy that has not been exercised or availed of for a long time must come to an end or cease to exist after a fixed period of time;

(iii) The provisions of the Limitation Act have to be construed differently, such as Section 3 has to be construed in a strict sense whereas Section 5 has to be construed liberally;

(iv) In order to advance substantial justice, though liberal approach, justice-oriented approach or cause of substantial justice may be kept in mind but the same cannot be used to defeat the substantial law of limitation contained in Section 3 of the Limitation Act;

(v) Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power is discretionary in nature and may not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence;

(vi) Merely some persons obtained relief in similar matter, it does not mean that others are also entitled to the same benefit if the court is not satisfied with the cause shown for the delay in filing the appeal;

(vii) Merits of the case are not required to be considered in condoning the delay; and

(viii) Delay condonation application has to be decided on the parameters laid down for condoning the delay and condoning the delay for the reason that the conditions have been imposed, tantamounts to disregarding the statutory provision.”

[Emphasis Supplied]

10. The Supreme Court in the case of **Sheo Raj Singh v. Union of India & Anr.**³ has held that the power to condone must be exercised based on the cause and not the length of the delay. A genuine explanation and not a mere excuse is required. The relevant extract is reproduced below:

“35. We find that the High Court in the present case assigned the following reasons in support of its order:

³ (2023) 10 SCC 531



35.1. The law of limitation was founded on public policy, and that some lapse on the part of a litigant, by itself, would not be sufficient to deny condonation of delay as the same could cause miscarriage of justice.

35.2. The expression “sufficient cause” is elastic enough for courts to do substantial justice. Further, when substantial justice and technical considerations are pitted against one another, the former would prevail.

35.3. It is upon the courts to consider the sufficiency of cause shown for the delay, and the length of delay is not always decisive while exercising discretion in such matters if the delay is properly explained. Further, the merits of a claim were also to be considered when deciding such applications for condonation of delay.

35.4. Further, a distinction should be drawn between inordinate unexplained delay and explained delay, where in the present case, the first respondent had sufficiently explained the delay on account of negligence on part of the government functionaries and the government counsel on record before the Reference Court.

35.5. The officer responsible for the negligence would be liable to suffer and not public interest through the State. The High Court felt inclined to take a pragmatic view since the negligence therein did not border on callousness.”

[Emphasis Supplied]

11. As discussed above, what is to be shown by a party is that there is sufficient cause to condone the delay in filing the Appeal. The Court is to exercise its discretion based on the fact as to whether the applicant/appellant has shown sufficient cause for such delay.

12. In the present case, the Application for condonation of delay sets out that the certified copy of the order dated 24.08.2018 was applied on 27.08.2018, and the same was prepared on 28.08.2018, and received on 01.09.2018. Further, the certified copy of the order dated 13.09.2018, wherein an application under Order XXXIX Rule 2A, CPC was decided by the learned Trial Court, was applied on 22.09.2018, and prepared and received on 25.09.2018. It has further been mentioned that certified copies of certain documents, namely the photographs, were applied for on



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22.09.2018, and the same were prepared and received on 25.09.2018. The applicant further specified that the applicant had translated certain documents, and thus, there was a delay of about twenty (20) days in filing the Appeal.

13. Given the aforesaid and the delay of 20 days, it cannot be said that the reasons as stated in the Application were either an excuse, nor it can be said that no sufficient reasons were given in the Application for the delay in filing the Appeal.

14. The Impugned Order is accordingly set aside. Consequently, the delay of 20 days in filing the Appeal is condoned.

14.1 The learned First Appellate Court shall now proceed to examine the matter on merits of the case and pass an order. Given the fact that already seven years have passed since the filing of the Appeal, the learned First Appellate Court is requested to decide the matter expeditiously.

15. Learned Counsel for the parties have said they the parties will not take any unnecessary adjournments before the learned First Appellate Court.

15.1 The parties are bound down by the statement made by their counsel today.

16. The Petition is disposed of in the foregoing terms. All pending Applications also stand closed.

17. The parties shall act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

MAY 15, 2025/ ha/pa

[Click here to check corrigendum, if any](#)