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

+ RFA 1084/2019

SARABJIT AHOOJA .....Appellant  
Through: Mr. S Chakraborty, Adv.

versus

PARUL RASTOGI .....Respondent  
Through: Mr. M K Sethi, Mr. Sachin &  
Mr. Vijay Singh, Adv.

**CORAM:**  
**HON'BLE MR. JUSTICE DHARMESH SHARMA**

**ORDER**  
**03.04.2025**

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1. The hearing is being conducted through hybrid mode.

**CM APPL. 54792/2019 (Delay of 489 days in filing the present appeal)**

2. This is an application for condonation of delay of 489 days in filing the present appeal.

3. Having heard the learned counsels for the parties and on perusal of the record, I find that there are no sufficient grounds advanced for condonation of delay in filing the instant appeal.

4. In a nutshell, the appellant is preferring the instant appeal under Section 96 of the Code of Civil Procedure, 1908, assailing the final judgment & decree dated 17.03.2018 passed by the learned ADJ-02, Shahdara District, Karkardooma Courts, Delhi [trial Court], whereby the suit of the respondent/plaintiff seeking decree of possession, permanent and mandatory injunction, besides the recovery of rent and mesne profit as well as damages, was allowed. The respondent/plaintiff had *inter alia* claimed that she was the owner of



the subject property, which was purchased by her from the erstwhile owner, wherein the appellant/defendant had been inducted as a tenant at a monthly rent of ₹17,500/- w.e.f. 01.05.2003 till 30.04.2012 for a period of nine years, and that the appellant/defendant had fallen in arrears of rent and failed to deliver the possession of the tenancy premises despite notice terminating his tenancy.

5. It was urged by learned counsel for the appellant/defendant that the impugned judgment dated 17.03.2018 is erroneous insofar as it has imposed liability for payment of mesne profits damages/user charges to the extent of ₹30,240/- per month along with interest @ 9% p.a. from the date of institution of the suit till handing over of the possession of the suit property, since neither any issue was raised nor any evidence was led.

6. Coming to the present application, it is stated that after passing of the impugned judgment, the appellant/defendant was dispossessed from the premises pursuant to execution of the warrants of possession issued *vide* order dated 26.07.2019 and since he had lost his only source of income i.e. running a shop from the suit premises and she could not contact her counsel for filing the present appeal in time, and thus, there occasioned a delay of 489 days.

7. Learned counsel for the respondent/plaintiff pointed out that the delay is actually 556 days excluding the period of 90 days which is provided for filing the appeal. It was pointed out that the present appeal was filed on 19.12.2019 by the same counsel who had been appearing for the appellant/defendant during the entire length and breadth of the proceedings before the learned Trial Court. It was further urged that even during the course of long trial before the learned Judge in the main suit which was instituted on 30.04.2013, no



rent was paid by the appellant/defendant.

8. *Ex-facie*, the appellant/defendant is unable to advance or assign any sufficient cause for non-filing of the appeal during the statutory period. The appeal is highly belated, and therefore, the present application for condonation of delay is dismissed.

9. The application stands disposed of.

**RFA 1084/2019 and CM APPL. 54791/2019 (Stay)**

10. In view of the fact that the application for condonation of delay has been dismissed, the present appeal is dismissed as well.

11. The pending application is also disposed of.

**DHARMESH SHARMA, J.**

**APRIL 03, 2025/sp**