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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ RFA 1102/2019, CM APPL. 55770/2019 & CM APPL.
55772/2019

NAWAB AKHTARAppellant
Through: Mr. Piyush, Adv.

versus

BHUPENDER GAHLAWATRespondent
Through: Ms. Prerna Sharma, Mr. Sunny
Vashist, Ms. Chinki Rani, Mr.
Babru Bhan & Mr. Vinay
Godara, Advs.

CORAM:
HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER

% **02.04.2025**

1. Having heard the learned counsel for the parties and on perusal of the record, the present appeal has been filed under Section 96 read with Order XLI Rule 1 of the Code of Civil Procedure, 1908 [CPC] whereby the appellant is assailing the impugned judgment & decree dated 12.09.2018 passed by the learned ADJ-04, West District, Tis Hazari Courts, Delhi, whereby the suit of the respondent/plaintiff for a sum of ₹3,67,000/- along with pendete lite and future simple interest at the rate of 6% per annum was decreed along with cost.

2. However, before proceeding to hear the appeal on merits, it was pointed out that there is an application under Section 5 of the Limitation Act, 1963 moved on behalf of the applicant/appellant for condonation of delay 364 days in filing the present appeal which requires consideration.

3. It is an admitted fact that the main suit was a contested one and



the certified copy of the judgment was applied for 15.09.2018 which was ready on 25.09.2018 but the present appeal was filed on 24.12.2019. It is acknowledged by the learned counsel for the appellant that the appeal should have been filed on or before 22.12.2018.

4. However, a plea is taken is that the appeal could not be filed during the prescribed period of limitation since the appellant tried to contact his counsel Mr. Prem Prakash but in vain and he had also made efforts by approaching the respondent/decreed holder for negotiating an amicable settlement; and that he was assured by the respondent/decreed holder that a compromise would be arrived at but he deliberately kept on delaying the negotiations. It is stated that the appellant was shocked to receive a notice of the execution of the decree on 07.12.2019, and thereafter, he rushed to his present counsel for filing the instant appeal.

5. During the course of arguments, it was acknowledged that the appellant had appeared before the learned Executing Court/Trial Court on 07.12.2019 and on that date, the appellant requested that he may be given some time to make payment as he did not have the financial capacity to pay to the decree holder.

6. Learned counsel for the respondent has rightly urged that he had filed the execution application after the expiry of 90 days which is the prescribed period for filing the first appeal. On the face of it, no sufficient ground had been advanced by the appellant so as to show that he was prevented from filing an appeal within the statutory period. Hence, there are no ground to condone the delay of 364 days in filing the appeal. Accordingly, the application for condonation of delay is dismissed.



7. Resultantly, the appeal is also dismissed. All other pending applications are also disposed of accordingly.

DHARMESH SHARMA, J.

APRIL 02, 2025
Ch