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

+ **RSA 8/2024**

DELHI DEVELOPMENT AUTHORITY

.....Appellant

Through: Mr.Ashutosh Kaushik and Ms.Manika
Tripathy, Standing Counsel for DDA
with Mr.Gautam Yadav, Advocate

versus

SUBHASH CHAND DUA AND ORS.

.....Respondents

Through: Mr.Amit Vohra, Advocate (Through
VC)

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

% **18.02.2025**

CM APPL. 22053/2024 (Delay)

1. The present application under Order XLI Rule 3A read with Section 151 of the Code of Civil Procedure, 1908 has been filed on behalf of the appellant/DDA seeking condonation of delay of 301 days in filing the captioned appeal.
2. Learned counsel for the appellant submits that consequent to the impugned order dated 10.11.2022, the matter was submitted before the Appeal Committee for determination, which accorded the approval to challenge the same on 06.01.2023. Thereafter, the matter was entrusted to the Counsel and the file was sent for drafting of the appeal. It is submitted that after drafting, the same was sent to the branch for verification and obtaining the administrative approvals in



the month of February, 2023. It is further submitted that in the meantime, during routine administrative transfer of staff, the file got mixed up with the files of disposed of matters, inadvertently and could not be traced at the relevant time. Subsequently, the file was traced and the requisite approvals from the Competent Authority were taken. It is also submitted that the delay is purely *bona fide* and unintentional. It is submitted that the appellant is a statutory body and works through its officials and officers and no decision or act is or can be done by any single individual/official.

3. To strengthen his arguments, learned Counsel has placed reliance upon the judgment passed in the case of ***“Improvement Trust Ludhiana vs. Ujagar Singh” TV (2010) SLT 797***, in the case of ***“State of Assam & Ors. Vs Susrita Holdings Pvt. Ltd.”, V (2014) SLT 787***, in the case of ***“Collector Land Acquisition Vs. Mst. Katiji & Ors.”, 1987 AIR 1353*** and in the case of ***“State (NCT of Delhi) Vs. Ahmed Jaan”, 2008 (14) SCC 582***.
4. *Per contra*, learned counsel for the respondents submits that he does not wish to file the reply to the application and shall make submissions. It is submitted that there is no sufficient cause being shown in the present application so as to entitle the appellant to condonation of delay. It is further submitted that the law on limitation is well-settled. Learned Counsel has placed reliance upon the judgment passed by the Apex Court in the case of ***“Chief Post Master General vs. Living Media India Limited”, (2012) 3 SCC 563***, wherein, it was, *inter alia*, held as under: -

“12. The claim on account of Impersonal machinery and



inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern, technologies being used and available. The law of limitation undoubtedly binds everybody including the Government.”

5. Learned Counsel has also placed reliance upon the judgment passed by the Apex Court in the case of **“Pathapati Subba Reddy (died) by L.Rs. vs Special Deputy Collector (LA), 2024 SCC OnLine SC 513,** it was, inter alia, held as under: -

"16. Generally, the courts have adopted a very liberal approach in construing the phrase 'sufficient cause' used in Section 5 of the Limitation Act in order to condone the delay to enable the courts to do substantial justice and to apply law in a meaningful manner which subserves the ends of justice. In Collector, Land Acquisition, Anantnag v. Katiji, this Court in advocating the liberal approach in condoning the delay for 'sufficient cause' held that ordinarily a litigant does not stand to benefit by lodging an appeal late; it is not necessary to explain every day's delay in filing the appeal; and since sometimes refusal to condone, delay may result in throwing out a meritorious matter, it is necessary in the interest of justice that cause of substantial justice should be allowed to prevail upon technical considerations and if the delay is not deliberate, it ought to be condoned. Notwithstanding the above, howsoever, liberal approach is adopted In condoning the delay, existence of 'sufficient cause' for not filing the appeal In time, Is a condition precedent for exercising the discretionary power to condone the delay. The phrase 'liberal approach', 'justice-oriented approach' and cause for the advancement of 'substantial justice cannot be employed to defeat the law of limitation so as to allow stale matters or as a matter of fact dead matters to be revived and re-opened by taking aid of Section 5 of the Limitation Act."

6. The law of limitation is well settled being statute of peace and repose based on public policy. It is enshrined in the legal maxim *“interest*



reipublicae ut sit finis litium” i.e. it is for the general welfare that a period of limitation be put to litigation. Though it is stated that Section 5 of the Act be construed liberally but shall be done in a pragmatic manner and strict sense. The Apex Court in **Pathapati Subba Reddy** (Supra) held as under:

“19. In Maqbul Ahmad and Ors. vs. Onkar Pratap Narain Singh and Ors, it had been held that the court cannot grant an exemption from limitation on equitable consideration or on the ground of hardship. The court has time and again repeated that when mandatory provision is not complied with and delay is not properly, satisfactorily and convincingly explained, it ought not to condone the delay on sympathetic grounds alone.”

7. This Court, after considering the facts of the present application finds no substance in the reasons for delay. The appellant has stated the following reasons for the delay in the present application which are as under:

“...3. That consequent upon the passing of the impugned order dated 10.11.22, the matter was submitted before the Appeal Committee for determination. The Appeal committee on 06.01.2023 accorded the approval to challenge the impugned order and accordingly the matter was entrusted to the Counsel and the file was sent for drafting of the appeal.

4. That in due course, the appeal was drafted, and sent to the branch for verification and obtaining the administrative approvals in the month of Feb 2023.

5. That it is humbly submitted that in the meantime, during routine administrative transfer of staff, the file got mixed up with the files of disposed of matters, inadvertently and could not be traced at the relevant time. However, when the issue came in to the notice of the department, the file was traced and sent to the counsel after obtaining the requisite



approvals from the Competent Authority along with signed Appeal and applications...”

8. Merely due to carelessness, the Court cannot construe the reasons to be “sufficient cause” and condone the delay. A delay of 301 days cannot be accepted to be *bona fide* on the ground that an inadvertent error occurred which made the file non-traceable. The Apex Court in ***Basawaraj and Anr. vs. Special Land Acquisition Officer*** (2013) 14 SCC 81 has *inter alia* held as under:

“...15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature...”

9. Keeping in view the facts and circumstances as well as the arguments advanced by learned counsel for the parties, I consider that there is no substance in the present application. The DDA/appellant being a government agency cannot be given any special treatment.



10. Accordingly, the present application stands dismissed.

RSA 8/2024 & CM APPL. 1623/2024 (Stay)

In view of the order of even date passed in CM APPL. 22053/2024, the present appeal alongwith the pending application stands dismissed.

DINESH KUMAR SHARMA, J

FEBRUARY 18, 2025

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