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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of Decision: 29th January, 2025***+ **C.R.P. 279/2024 & CM APPL. 57238/2024**

DHANPAL SINGH

.....Petitioner

Through: Mr. Rajender Yadav, Adv.
through V.C.

versus

SHIVRAJ SINGH

.....Respondent

Through: Mr. Anurag Singh, Adv.
through V.C.**CORAM:****HON'BLE MR. JUSTICE AMIT MAHAJAN****AMIT MAHAJAN, J.****CM APPL. 57240/2024** *(for condonation of 194 days delay in filing the petition)*

1. The present application is filed under Section 5 of the Limitation Act, 1963 seeking condonation of delay of 194 days in filing the accompanying petition against the order dated 15.12.2023 (hereafter '**impugned order**') passed by the learned Additional District Judge ('**ADJ**'), Saket Courts, Delhi in CS DJ 737/2022.

2. By impugned order, the learned ADJ dismissed the application filed by the petitioner under Order VII Rule 11 of the Code of Civil Procedure, 1908 ('**CPC**') on the ground that the suit was filed by the respondent/plaintiff within the period of



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limitation. The learned ADJ noted that the petitioner had raised two grounds for rejection of plaint that are, improper valuation of the suit, and the ground of limitation. It was noted that the respondent had already sought an amendment in the plaint for valuation of the suit property for the purpose of jurisdiction. It was further noted that the suit was not barred by limitation. Consequently, the application filed by the petitioner under Order VII Rule 11 was rejected.

3. The learned counsel for the applicant submits that the delay in filing the present petition emanated from the fact that the parties being real brothers, were attempting to settle the matter. He submits that the respondent had previously settled his claim in relation to some other ancestral property with another family member.

4. He submits that in the same manner, the applicant was desirous of settling the dispute with the respondent. He submits that for the same reason the accompanying petition could not be filed in a timely manner. He submits that the delay was neither intentional and nor deliberate.

5. In accordance with Section 5 of the Limitation Act, 1963, any appeal or application may be admitted beyond the prescribed period of limitation provided that there exists 'sufficient cause' that prevented the party from approaching the Court within the period of limitation.

6. The Hon'ble Apex Court, in a very recent case of ***H. Guruswamy v. A. Krishnaiah*** : 2025 SCC OnLine SC 54,



observed as under:

“15. The rules of limitation are not meant to destroy the rights of parties. They are meant to see that the parties do not resort to dilatory tactics but seek their remedy promptly.

*16. The length of the delay is definitely a relevant matter which the court must take into consideration while considering whether the delay should be condoned or not. From the tenor of the approach of the respondents herein, it appears that they want to fix their own period of limitation for the purpose of instituting the proceedings for which law has prescribed a period of limitation. **Once it is held that a party has lost his right to have the matter considered on merits because of his own inaction for a long, it cannot be presumed to be non-deliberate delay and in such circumstances of the case, he cannot be heard to plead that the substantial justice deserves to be preferred as against the technical considerations. While considering the plea for condonation of delay, the court must not start with the merits of the main matter. The court owes a duty to first ascertain the bona fides of the explanation offered by the party seeking condonation.** It is only if the sufficient cause assigned by the litigant and the opposition of the other side is equally balanced that the court may bring into aid the merits of the matter for the purpose of condoning the delay.*

17. We are of the view that the question of limitation is not merely a technical consideration. The rules of limitation are based on the principles of sound public policy and principles of equity. No court should keep the ‘Sword of Damocles’ hanging over the head of a litigant for an indefinite period of time.”

(emphasis supplied)

7. The ground raised by the applicant is only that the accompanying petition and the application could not be filed since the applicant was hoping to settle the matter with the respondent. It is pertinent to mention that Section 5 of the Limitation Act, 1963 envisages condonation of delay only on the ground that the party, due to some adequate and enough reason,



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was prevented to approach the Court within the period of limitation.

8. Upon careful consideration, it is evident that the application filed by the applicant seeking condonation of delay is bereft of any such reasons disclosing any sufficient cause. The onus lies on the applicant to establish a credible and justifiable explanation for failing to file the petition within the prescribed time frame.

9. In view of the above, this Court finds no reason to interfere with impugned order since the averments made in the application seeking condonation of delay are not sufficient to hear the petition on merits.

10. The present application is dismissed.

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11. The present petition also stands dismissed on the ground of delay.

12. Pending application(s), if any, also stand disposed of.

AMIT MAHAJAN, J

JANUARY 29, 2025