$~96

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

% *Date of Decision: 24.09.2025*

\+ **FAO 263/2025, CM APPL. 60860/2025 & 60859/2025**

AJIT SINGH & ORS. .....Appellants

Through: Dr. (Maj) J.C. Vashista, Advocate

versus

KANTA DEVI .....Respondent

Through: None

CORAM: JUSTICE GIRISH KATHPALIA

O R D E R (ORAL)

1. The appellants/plaintiffs have assailed order dated 14.08.2025 of the learned trial court, whereby application of the appellants/plaintiffs under Section 5 and Section 14(2) of the Limitation Act dealing with delay of 22 years in filing the suit was dismissed.

2. Having heard learned counsel for appellants/plaintiffs, I do not find it a fit case to even issue notice.

3. Broadly speaking, the appellants/plaintiffs filed a suit, praying for a declaration that the Sale Deed dated 27.10.2003 is illegal, invalid, null and void with regard to 1/6th undivided share of late Zile Singh in the subject land situated in Revenue Estate of Village Dichaon Kalan, Tehsil Najafgarh

Delhi; and for the attendant mandatory as well as perpetual injunction. The plaint was filed on 19.07.2025 along with an application under Section 5 and Section 14(2) of the Limitation Act, praying for "condonation of delay" of about 22 years in filing the suit. The learned trial court, after detailed discussion, dismissed the application and consequently the suit, taking a view that the provision under Section 5 Limitation Act does not operate on suits and the provision under Section 14(2) of the Act would not help the present appellants on account of absence of "good faith".

4. Learned counsel for appellants in all fairness admits that the impugned order does not suffer any infirmity insofar as the decision to the extent that Section 5 Limitation Act does not apply to suit. However, learned counsel for appellants contends that the benefit of Section 14(2) of the Act ought to have been granted to the appellants/plaintiffs because for 22 years, the appellants/plaintiffs were prosecuting the remedy before Revenue Authorities under wrong legal advice. It is contended that the period of 22 years spent before the Revenue Authorities ought to be considered to condone delay in filing the suit. No other argument has been advanced.

5. At the outset, it needs to be kept in mind that condonation of delay in institution of proceedings is contemplated only under Section 5 of the Limitation Act, and that too, pertaining to the appeals and applications other than an application under Order XXI CPC. As fairly admitted by learned counsel for appellants/plaintiffs, the delay in filing a suit cannot be condoned. What the provision under Section 14 of the Act contemplates is

not condonation but exclusion of the period.

6. For convenience, the provision under Section 14 Limitation Act is extracted below:

> *"14. Exclusion of time of proceeding bona fide in court without jurisdiction –*
>
> *(1) In computing the period of limitation for any suit the time during which the plaintiff has been prosecuting* ***with due diligence*** *another civil proceeding, whether in a court of first instance or of appeal or revision, against the defendant shall be excluded, where the proceeding* ***relates to the same matter*** *in issue and is prosecuted in* ***good faith*** *in a court which,* ***from defect of jurisdiction*** *or other cause of a like nature, is unable to entertain it.*
>
> *(2) ......*
>
> *(emphasis supplied)*

The provision under Section 14 of the Limitation Act contemplates that in computing the period of limitation for any suit, the time during which the plaintiff has been prosecuting another civil proceeding shall be excluded, provided the said prosecution of the other civil proceeding was with due diligence and the said earlier proceedings related to the same matter in issue and were prosecuted in good faith in a court which, from defect of jurisdiction was unable to entertain it.

7. In the present case, what the appellants/plaintiffs seek is exclusion of 22 years, allegedly spent by them pursuing the proceedings before the Revenue Authorities before filing the subject suit. It is not in dispute that the appellants/plaintiffs were always aware about existence of the Sale Deed

dated 27.10.2003, sought to be impugned in the subject suit. But instead of promptly filing a suit for cancellation of the said Sale Deed, the appellants/plaintiffs proceeded before the Revenue Authorities to challenge only the mutation proceedings. Admittedly, before the Revenue Authorities, the appellants/ plaintiffs never assailed the validity of the impugned Sale Deed.

8. In the present case, admittedly, what was being prosecuted before the Revenue Authorities was not what is the subject matter of the suit, i.e., the impugned Sale Deed. Despite being in knowledge of the existence of the impugned Sale Deed, in the proceedings before the Revenue Authorities, the Sale Deed was not challenged. That being so, it was obviously not a situation where the Revenue Authorities would reject those proceedings on account of defect of jurisdiction.

9. The contention of learned counsel for appellants/plaintiffs that on account of wrong legal advice the appellants/plaintiffs cannot be made to suffer, would not be of any help in the present case. For, as mentioned above, there is nothing on record to show that for a period of 22 years, the appellants/plaintiffs wanted to assail the impugned Sale Deed, which is the reason they approached the Revenue Authorities only pertaining to the mutation proceedings. Going a step deeper, accepting the contention that it is the mistaken legal advice which led to delay of 22 years in filing the subject suit would make completely redundant the ingredients of ‘due diligence’ and ‘good faith’ used in Section 14 of the Act.

10. In view of the aforesaid, I find no infirmity in the impugned order, so the same is upheld. The appeal and the accompanying applications are dismissed.

GIRISH KATHPALIA
(JUDGE)

SEPTEMBER 24, 2025/*as*