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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **RFA(COMM) 11/2025**
M/S RIDHA FASHIONS & ORS.APPELLANTS

Through: Mr Raj Kumar, Advocate.

versus

M/S NANDI FABRICSRESPONDENT
Through: None.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MR. JUSTICE TEJAS KARIA

ORDER
12.03.2025

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CM APPL. 1387/2025

1. The appellants have filed the above captioned appeal impugning a judgement and decree dated order dated 17.01.2023 (hereafter **the impugned judgement**) in CS (Comm) no. 224/2020 captioned *M/s Nandi Fabrics vs M/s Ridhima Fashion and Ors.*
2. This is an application filed by the appellants – who were arrayed as defendants in CS(Comm) no.224/2020 – seeking condonation of delay of 605 (six hundred and five) days in filing the present appeal. The appellants explanation for the inordinate delay in filing the appeal is as follows. They submit that they had engaged their counsel (Ms. Vandana Rani) who was looking after the present case, however, she was expecting and delivered a child in the month of March, 2023. They submit that she was suffering from post-



delivery complications and therefore, the appeal could not be filed within time.

3. The present appeal was listed on 10.01.2025 and the appellants had sought further time to file an additional affidavit to explain the delay in filing the appeal. The appellants have since filed the said additional affidavit. The explanation for the delay remains the same – the ill-health of Ms. Vandana Rani, Advocate who was engaged by the appellants. The appellants have also filed certain medical documents to establish that Ms. Vandana Rani has suffered certain medical complications.

4. Copy of the impugned judgment indicates that the appellants were the defendants in the suit and had stopped appearing despite repeated opportunities. The parties were also referred to the Delhi High Court Mediation and Conciliation Centre to explore the possibility of settlement but the parties could not settle their dispute. The learned Commercial Court had noted that the suit filed by the respondents was one of the 20 oldest cases on the court's board and accordingly, decided to take up the same on priority. The appellants were granted opportunity to cure the defects in the written statement and also granted time for filing the statement of admission and denial of documents. However, despite repeated opportunities, the appellants had failed to cure the defects and had stopped appearing in the proceedings. In view of the above, the learned Commercial Court had passed an order dated 29.11.2022 directing that the appellants be proceeded ex-parte.

5. The documents produced by the respondent (plaintiff) were



exhibited and the final arguments were also heard. The matter was thereafter fixed by the learned Commercial Court on 17.12.2022 for orders. At that stage, on 17.12.2022, the appellants filed an application under Order IX Rule 7 of the Code of Civil Procedure, 1908, once again stating that the appellants were willing to settle the dispute in Mediation. The appellants explanation for not curing the defect in the written statement; not filing the affidavit of admission and denial; and not appearing before the court was that Ms. Vandana Rani, Advocate who was engaged by the appellants was facing serious issues in her pregnancy and therefore, could not continue her practice after October, 2022. The appellants contended before the learned Commercial Court that the non-appearance of the appellants was neither intentional nor on account of any negligence but on account of ill-health of Ms. Vandana Rani, Advocate.

6. The learned Commercial Court did not accept the said explanation essentially for the reason that the written statement bore the name of Ms. Vandana Rani, Advocate as well as Sh. Manoj Chauhan, Advocate. It also did not bear the signatures of Ms. Vandana Rani, Advocate. There was no explanation as to why Sh. Manoj Chauhan, Advocate who was also a counsel engaged by the appellants, had not appeared.

7. In the given facts, clearly the issue of ill-health of Ms. Vandana Rani, Advocate for explaining the delay in filing the present appeal cannot be accepted. The appellants were fully aware of her condition and had in fact sought to explain the reason for their non-appearance before the learned Commercial Court as ill-health of Ms. Vandana



Rani, Advocate. This, therefore, cannot be accepted as a ground for delay in filing the present appeal.

8. In ***Government of Maharashtra v. Borse Brothers Engineers and Contractors Pvt. Ltd.: (2021) 6 SCC 460***, the Supreme Court had observed as under:

58. Given the object sought to be achieved under both the Arbitration Act and the Commercial Courts Act, that is, the speedy resolution of disputes, the expression “sufficient cause” is not elastic enough to cover long delays beyond the period provided by the appeal provision itself. Besides, the expression “sufficient cause” is not itself a loose panacea for the ill of pressing negligent and stale claims. This Court, in *Basawaraj v. LAO* [*Basawaraj v. LAO*, (2013) 14 SCC 81] , has held : (SCC pp. 85-88, paras 9-15)

“9. Sufficient cause is the cause for which the defendant could not be blamed for his absence. The meaning of the word “sufficient” is “adequate” or “enough”, inasmuch as may be necessary to answer the purpose intended. Therefore, the word “sufficient” embraces no more than that which provides a platitude, which when the act done suffices to accomplish the purpose intended in the facts and circumstances existing in a case, duly examined from the viewpoint of a reasonable standard of a cautious man. *In this context, “sufficient cause” means that the party should not have acted in a negligent manner or there was a want of bona fide on its part in view of the facts and circumstances of a case or it cannot be alleged that the party has “not acted diligently” or “remained inactive”.* However, the facts and circumstances of each case must afford sufficient ground to enable the court concerned to exercise discretion for the reason that whenever the court exercises discretion, it has to be exercised judiciously. The applicant must satisfy the court that he was prevented by any “sufficient cause” from prosecuting his case, and unless a satisfactory explanation is furnished, the court should not allow the application for condonation of delay. The court has to examine whether the mistake is bona fide or was merely a device to cover an ulterior purpose. (See *Manindra Land & Building Corpn. v. Bhutnath Banerjee* [*Manindra Land & Building Corpn. v. Bhutnath Banerjee*, AIR 1964 SC 1336] , *Mata Din v. A. Narayanan* [*Mata Din v. A. Narayanan*, (1969) 2 SCC



770] , *Parimal v. Veena* [*Parimal v. Veena*, (2011) 3 SCC 545 : (2011) 2 SCC (Civ) 1] and *Maniben Devraj Shah v. Municipal Corpn. of Brihan Mumbai* [*Maniben Devraj Shah v. Municipal Corpn. of Brihan Mumbai*, (2012) 5 SCC 157 : (2012) 3 SCC (Civ) 24] .)

10. In *Arjun Singh v. Mohindra Kumar* [*Arjun Singh v. Mohindra Kumar*, AIR 1964 SC 993] this Court explained the difference between a “good cause” and a “sufficient cause” and observed that every “sufficient cause” is a good cause and vice versa. However, if any difference exists it can only be that the requirement of good cause is complied with on a lesser degree of proof than that of “sufficient cause”.

11. The expression “sufficient cause” should be given a liberal interpretation to ensure that substantial justice is done, but only [Ed. : The matter between two asterisks has been emphasised in original.] *so long as negligence, inaction or lack of bona fides cannot be imputed to the party concerned* [Ed. : The matter between two asterisks has been emphasised in original.] , whether or not sufficient cause has been furnished, can be decided on the facts of a particular case and no straitjacket formula is possible. (Vide *Madanlal v. Shyamlal* [*Madanlal v. Shyamlal*, (2002) 1 SCC 535] and *Ram Nath Sao v. Gobardhan Sao* [*Ram Nath Sao v. Gobardhan Sao*, (2002) 3 SCC 195] .

12. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The court has no power to extend the period of limitation on equitable grounds. ‘A result flowing from a statutory provision is never an evil. A court has no power to ignore that provision to relieve what it considers a distress resulting from its operation.’ The statutory provision may cause hardship or inconvenience to a particular party but the court has no choice but to enforce it giving full effect to the same. The legal maxim *dura lex sed lex* which means “the law is hard but it is the law”, stands attracted in such a situation. It has consistently been held that, “inconvenience is not” a decisive factor to be considered while interpreting a statute.

13. The statute of limitation is founded on public policy, its aim being to secure peace in the community, to suppress fraud and perjury, to quicken diligence and to prevent oppression. It seeks to bury all acts of the past which have not been agitated



unexplainably and have from lapse of time become stale. According to *Halsbury's Laws of England*, Vol. 28, Para 605 p. 266:

‘605. *Policy of the Limitation Acts*.—The courts have expressed at least three differing reasons supporting the existence of statutes of limitation, namely, (1) that long dormant claims have more of cruelty than justice in them, (2) that a defendant might have lost the evidence to disprove a stale claim, and (3) that persons with good causes of actions should pursue them with reasonable diligence.’

An unlimited limitation would lead to a sense of insecurity and uncertainty, and therefore, limitation prevents disturbance or deprivation of what may have been acquired in equity and justice by long enjoyment or what may have been lost by a party's own inaction, negligence or laches. (See *Popat & Kotecha Property v. SBI Staff Assn.* [*Popat & Kotecha Property v. SBI Staff Assn.*, (2005) 7 SCC 510], *Rajender Singh v. Santa Singh* [*Rajender Singh v. Santa Singh*, (1973) 2 SCC 705] and *Pundlik Jalam Patil v. Jalgaon Medium Project* [*Pundlik Jalam Patil v. Jalgaon Medium Project*, (2008) 17 SCC 448 : (2009) 5 SCC (Civ) 907] .)

14. In *P. Ramachandra Rao v. State of Karnataka* [*P. Ramachandra Rao v. State of Karnataka*, (2002) 4 SCC 578 : 2002 SCC (Cri) 830] this Court held that judicially engrafting principles of limitation amounts to legislating and would fly in the face of law laid down by the Constitution Bench in *Abdul Rehman Antulay v. R.S. Nayak* [*Abdul Rehman Antulay v. R.S. Nayak*, (1992) 1 SCC 225 : 1992 SCC (Cri) 93] 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.”

(emphasis supplied)

9. It is apparent from above that the question of condoning the delay in commercial disputes cannot be considered liberally. The court has to evaluate the reasons for the delay and the same can be condoned only where the court is satisfied that there is sufficient cause that prevented the appellant to file the appeal within the stipulated time. In the present case, there is no credible explanation for the inordinate delay of six hundred and five days in filing the present appeal.

10. The application is accordingly dismissed.

RFA(COMM) 11/2025 and CM APPL. 1386/2025

11. Consequently, the appeal and the pending application are also dismissed.

VIBHU BAKHRU, J

TEJAS KARIA, J

MARCH 12, 2025/tr

Click here to check corrigendum, if any