



2025:DHC:11354



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

% ***Date of decision: 12.12.2025***

+ **FAO 345/2025, CM APPL. 78701/2025& CM APPL. 78702/2025**
PRADEEP KUMAR KAPOORAppellant

Through: Mr. R.K. Shukla, Advocate.

versus

MUNICIPAL CORPORATION OF DELHI AND
ANRRespondents

Through: Mr. Gaganmeet Singh Sachdeva,
Standing Counsel, Mr. Hridyesh
Khanna, Mr. Harshpreet Singh
Sachdeva and Ms. Devika Mehra,
Advocates.

CORAM:

HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA

JUDGMENT (ORAL)

1. This appeal under Order XLIII Rule 1 of the Civil Procedure Code, 1908 (the CPC) has been filed by the plaintiff in Misc. DJ No. 3756/2024 on the file of the Court of District Judge-04, Patiala House Courts, New Delhi, aggrieved by the order dated 02.09.2025 by which his application for restoration of the suit and condonation of the delay of 1890 days was dismissed.

2. In this appeal, unless otherwise specified, the parties shall be referred to as described in the plaint.



3. The plaintiff filed CS No. 59208/2016 seeking recovery of damages, compensation, permanent and mandatory injunction against the defendant, namely, MCD. According to the plaintiff, he was an employee of the defendant who had initiated illegal and *malafide* disciplinary proceedings against him. Hence, CS 971/2012 for recovery of damages and compensation to the tune of ₹50,00,000/- along with the interest and costs was filed. Initially, the suit was filed before this Court. Thereafter, *vide* order dated 22.01.2016, the case was transferred to the district court in view of the change in pecuniary jurisdiction. Thereafter, when the matter came up before the trial court on several dates, the plaintiff never appeared, and hence the suit was dismissed for default.

3.1. On 05.11.2024 plaintiff filed an application under Order IX Rule 9 CPC seeking to set aside the order dated 22.01.2016 along with an application under Section 5 of the Limitation Act (the Limitation Act) for condonation of delay in filing the said application.



3.2. The respondent/defendant opposed the application, contending that there was absolutely no ground for restoring the suit as the plaintiff had repeatedly not appeared before the Court.

3.3. The trial court, after considering the materials on record and after hearing both sides, found that there was no sufficient cause and proceeded to dismiss both the applications. Aggrieved, the plaintiff has come up in appeal.

4. It is submitted by the learned counsel for the appellant/plaintiff that the absence of the plaintiff was not intentional, and it was due to several cogent reasons that he was unable to appear before the trial court. According to the plaintiff, in the year 2019, he had to travel to his hometown Jalandhar in Punjab, to attend urgent family matters. When he returned to Delhi, COVID-19 pandemic had set in. During the said period, due to his old age and ill health, he was unable to prosecute the case. In September 2024, when the plaintiff contacted his counsel who was appearing on his behalf, he was informed that the suit had been



dismissed. According to the learned counsel, it was due to the aforesaid reasons, the plaintiff was unable to appear before the Court, and that there was no *malafides* in not appearing before the Court.

5. The learned counsel for the respondent/defendant opposes the appeal and submits that there is no infirmity in the impugned order calling for an interference by this Court.

6. Heard both sides.

7. On going through the materials on record, the following facts are revealed: The matter is seen to have come up before the trial court on 27.03.2019, 29.05.2019, 03.07.2019 and 27.07.2019. The plaintiff never appeared on any of these occasions and hence, the trial court proceeded to dismiss the suit for default. In 2019, there was no Covid pandemic. The application for restoration is seen to have been filed on 05.11.2024 only. The reasons stated are that the plaintiff had to go to his hometown, due to some urgent and pressing family matters; that COVID-19 pandemic had set in



and that it was due to his old age and ill health that he was unable to contact his counsel or pursue the suit. Now assuming that these reasons cited by the plaintiff are true, even then, the plaintiff has not explained as to why he filed the application for restoration only on 05.11.2024 and the application for condonation of delay thereafter on 03.11.2024. By 2021, COVID-19 pandemic was over, and the lockdown was lifted. No explanation is given as to why, in the years 2022 and 2023, no steps were taken by him. The delay is 1890 days, which is nearly 6 years. No sufficient reason(s) are shown for condoning the long delay in filing the application for restoration of the suit. I do not find any infirmity or illegality committed by the trial court in dismissing the applications.

8. Hence, the appeal, *sans* merits, stands dismissed. Application(s), if any pending, shall stand closed.

**CHANDRASEKHARAN SUDHA
(JUDGE)**

DECEMBER 12, 2025/mj