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

+ RFA 50/2024, CM APPL. 3483/2024 & CM APPL. 32903/2024

CAPT. ARUNA SANTOSH DUKHANDEAppellant

Through: Ms. Kshirja Agarwal, Adv.

versus

PAWAN HANS HELICOPTER LTD. & ORS.Respondents

Through: Mr. Vedhant Tomar and Mr. Sunil
Mutreja, Adv.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

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09.02.2026

CM APPL. 3484/2024:

1. Present Application has been filed on behalf of the **Appellant, Capt. Aruna Santosh Dukhande** seeking **condonation of delay of 584 days** in filing the present Appeal, against impugned Judgment dated 27.01.2020.
2. It is submitted in the Application that the Appellant in January, 2016, during the pendency of the Civil Suit before the learned Trial Court, the Appellant was undergoing marital issues (she is divorced as on date), and health issues and hence, was unable to follow up with the day-to-day proceedings.
3. She trusted her advocate to put forth her stand in the matter and contact her as and when required. She was also on very hectic flying duties with her Company and was travelling very frequently.
4. A perusal of the record shows that on 20.01.2016, learned Counsel for the Appellant had made a statement before the learned Trial Court that she was unable to contact the Appellant and therefore, Court Notice was



directed to be issued. Appellant received no communication from her Advocate whatsoever. The Record clearly reflects that the Court Notices were not served upon the Appellant and she was proceeded *ex parte* on 20.12.2016.

5. It is further stated that the Appellant is a single lady, who was taking care of both her aged parents and aunt who stayed with her. Her father was seriously ill since 2004 and his medical treatment was very costly. She was constrained to take a loan @ 10% per annum from the market. Her father died in 2015, leaving a grave void in her life. Thereafter, moneylenders started approaching and harassing her and hence, her full focus and energy got devoted to coping with the situation and repaying the loan. Thereafter, her aunt, who used to stay with them, also died in December, 2015.

6. Appellant's mother, who was already dependent upon her, suffered a major mental setback and became totally dependent on the Appellant for all her day-to-day activities. Appellant's mother also suffered from severe depression owing to the loss in her family. Appellant was the only person to take care of her mother and she was the only bread earner in the family.

7. During the entire process, Appellant was also constrained to sell her house in which she was living, in order to meet the financial needs of her father's treatment and had to shift to a house owned by her sister being located at Mira Road East, Mumbai.

8. Appellant's mobile phone also broke, which had the contact of the Counsel. Appellant was assured that the Advocate would contact her on her mobile number as and when required. However, after getting the records of the case file, the Appellant realized that her Counsel never contacted her.

9. To add to the misery of the Appellant, she met with an accident in



February, 2018 and was bedridden for the next 1.5 years. On account of COVID-19 Pandemic, period between 15.02.2020 and 28.02.2022 be excluded in calculation of limitation.

10. In 2021, the Appellant suffered from diabetes and was grounded and was on medication from 2021 to early 2023. Despite being the first lady Helicopter Pilot in the history of Civil Aviation in India, she had a life full of hardships and in the process of dealing with them could not pay close attention to the dispute in hand, on the assumption that the Counsel engaged would contact her, if so needed.

11. The Appellant received Summons of ***Execution Petition*** on 25.08.2023, at the office address of current employment being Indigo Airlines and get to know about the impugned Judgment being passed in Civil Suit. She tried to locate her Advocate, but failed to make any contact. Thereafter, she engaged a new Counsel and procured the certified copy of the entire record on 03.11.2023. Thereafter, the Appeal was filed within limitation period on i.e. 05.01.2024.

12. *Therefore, the delay of 584 days (though, as per Registry, delay is of 984 days) in filing the Appeal may be condoned.*

13. **Respondent No.1, in its Reply to this Application**, has taken *preliminary objection* that this Application does not disclose any cause for not approaching the Court within the limitation period and no sufficient cause has shown for condoning the delay. Article 116 of the Limitation Act, 1963, provides a period of 90 days for filing an Appeal, though Appellant has approached after delay of about 1460 days, against Judgment dated 27.01.2020 and this Application is liable to be dismissed. Appellant has approached this Court with *un-clean hands* and has maliciously presented



wrong and false facts.

14. It is further submitted that the *Suit for Recovery of Damages* was filed in 2008, for the breach of Service Agreement Bond which was duly signed by the Appellant and Respondent No.1. The Appellant had appeared before the learned Trial Court during the Civil Suit proceedings till 20.01.2016 and thereafter, willfully and deliberately neglected to appear before the Court.

15. Despite the numerous reminders and opportunities given by the learned Trial Court to the Appellant to appear before it and pursue the proceedings of the Civil Suit, she remained absent and was proceeded *ex parte* on 26.12.2016. Perusal of the record reflects that the Appellant had full knowledge of the proceedings and therefore, she had not been vigilant and had acted in a negligent manner.

16. Reliance is placed on Mohd. Sahid & Ors. vs. Raziya Khanam (dead) Through Legal Representatives and Ors., 2018 SCC OnLine SC 1867.

17. It is further contended that *no sufficient cause for explaining the delay of 1460 days in filing of the present Appeal*, has been given by the Appellant. Her conduct is absolutely negligent. She remained in-active and there is no cause for condoning the delay.

18. Moreover, this Application is not *bona fide*. Copy of impugned Decree dated 27.01.2020 was sent to the Appellant through a messenger by Respondent No.1. However, she refused to accept the Decree. Respondent No.1 compelled to indulge in litigation with the Appellant for a period of 12 years and present Appeal is only other means of prolonging the litigation, thereby delaying the delivery of justice.

19. Reliance is placed on Majji Sannemma @ Sanyasirao vs. Reddy



Sridevi and Ors., 2021 SCC OnLine SC 1260, wherein the Apex Court observed that when there is no cogent explanation for delay of 1011 days and dismissed the Application seeking condonation.

20. ***On merits***, it is stated that the Appellant has claimed that she was undergoing matrimonial litigation, when in fact she was divorced on 14.02.2007. Her contention is that she was undergoing health issues, but no supporting documents are placed on record. It is further submitted that it was the duty of the Appellant to contact her Counsel, rather than sitting and waiting for the Counsel to contact her.

21. If, as per the Appellant, she was constrained to shift her residence, but she never informed the learned Trial Court about her new address, so that communication could be sent to her. Rather, Respondent No.1 had personally delivered the copy of the Decree, but the same was declined to be accepted by her.

22. *All other averments are denied and it is submitted that the Application is without merit and is liable to be dismissed.*

Submissions heard and record perused.

23. The Appellant seeks condonation of an inordinate delay of 584 days *as per the Appellant*, and 984 days *as per the Registry*, whereas the Respondent has pointed out that the effective delay from the date of the impugned Judgment dated 27.01.2020, is about 1460 days.

24. It is trite that while considering an Application under Section 5 of the Limitation Act, the Court must be satisfied that “*sufficient cause*” prevented the Appellant from approaching the Court within limitation. The expression “*sufficient cause*,” while must be construed so liberally, but not to condone gross negligence, inaction or lack of *bona fides*.



25. The Appellant has made a general averment that she was suffering from *health issues*. However, no contemporaneous medical record has been placed on record to show that she was incapacitated to such an extent that she was prevented from contacting her counsel for several years.

26. The Appellant has pleaded that she was on *hectic flying duties and was frequently travelling*. This plea is self-contradictory, as if she was suffering from the prolonged medical incapacity, she could not have been on flying duty at that time.

27. The Appellant states that she was *bedridden for 1.5 years* after an accident in February 2018, and later suffered from diabetes from 2021 onwards. No material is placed to demonstrate these assertions.

28. Furthermore, she was proceeded *ex parte* during the trial, on 20.12.2016, which is prior to her accident in February, 2018. The impugned Judgment was passed on 27.01.2020. Her continued employment indicates that she was functionally active and capable of managing professional responsibilities. Similarly, her plea that she was diagnosed with diabetes in 2021 and was grounded till early 2023 does not explain the delay from January 2020 till 2021.

29. It cannot be overlooked that the record reflects that her counsel had tried to contact her but she was not reachable. The plea that her mobile phone broke and contained the contact details of her counsel, is wholly untenable. The notice was also sent, which came back unserved. The Appellant has herself averred that she was *constrained to sell her house due to financial distress*.

30. **Further**, financial difficulty, though unfortunate, does not suspend limitation.



31. The Appellant has further contended that she ***gained knowledge of the impugned Judgment only upon receipt of summons in Execution, on 25.08.2023***. This contention lacks credibility in view of her admitted participation in the Suit proceedings till 2016 and her failure thereafter, to make any inquiry whatsoever, about the case. Even assuming knowledge in August, 2023, the explanation for the period from 20.12.2016, when she was proceeded *ex parte* till August, 2023, remains wholly unsatisfactory. Furthermore, the present case substantially pre-dates the pandemic, the benefit of which cannot be attributed to the Appellant herein.

32. ***To sum up***, the reasons assigned by the Appellant pertain primarily to events between 2015 and 2018, including personal, financial and medical difficulties. However, the impugned Judgment was passed on 27.01.2020. The Appellant has failed to furnish any cogent and specific explanation accounting for the delay from the date of proceeding *ex parte* in December, 2016 till the Judgment and thereafter, till the filing of the present Appeal.

33. The record reflects that the Appellant had appeared in the proceedings till 20.01.2016, when she was proceeded *ex parte*, after due process and was aware of the pendency of the Civil Suit. A litigant cannot absolve herself of responsibility by merely attributing negligence to her Counsel. It is well settled that a party has a duty to remain vigilant about her case. The plea that the Advocate did not contact her, or that her mobile phone was damaged, does not constitute sufficient cause.

34. The conduct of the Appellant does not reflect due diligence. Even assuming that she acquired knowledge upon receipt of summons in Execution in August, 2023, the explanation for the preceding period remains



wholly unsatisfactory. The averments are general in nature, unsupported by any evidence, and do not explain day-to-day delay, particularly when the delay runs into several years.

35. *In view of the foregoing discussion*, the Application is devoid of merit and is accordingly **dismissed**.

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36. Consequent to dismissal of CM APPL. 3483/2024, present Appeal along with pending Applications is, also **dismissed**.

NEENA BANSAL KRISHNA, J.

FEBRUARY 9, 2026/R