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

+ RSA 36/2026, CM APPL. 10298-10299/2026

SHAWAL SHARMA & ANR.

.....Appellants

Through: Mr. J.K Sharma, Mr. Karan Nagpal,
Mr. Vinayak Sharma, Mrs. Sonali
Tomar, Advocates.

versus

VINOD SHARMA

.....Respondent

Through: Mr. Rajeev Khanna, Advocate.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

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13.02.2026

1. Regular Second Appeal under Section 100 and Order XLII read with Section 151 CPC has been filed on behalf of the Appellants seeking setting aside the Judgment dated 27.11.2025 passed by learned District Judge-03, South, Saket Court in RCA DJ No.42/2025, whereby the Regular First Appeal has been dismissed by the learned District Judge on the grounds of limitation.
2. The Plaintiff/Respondent has filed a Suit against the Appellant/Defendant for Recovery of Possession and Mesne Profits. The Appellant is none other than the son of the Respondent. The Suit was decreed vide Judgment dated 25.01.2024, whereby the Appellant has been directed to hand over the Possession of the Suit property and also to pay mesne profit @ Rs.8,000/- per month from the date of filing of the Suit till vacation of the Suit property.
3. The Regular First Appeal was filed with an Application under Section 5 of Limitation Act for Condonation of Delay of 391 days in filing the Appeal. The learned District Judge considered in detail that there was no



explanation, whatsoever, for delay which actually was of 455 days and not 391 days and, therefore, dismissed the Application for Condonation of Delay.

4. It was observed that the explanation offered by the Appellant was completely inadequate. There was no duty cast upon the Trial Court or the opposite side Respondent/Plaintiff herein to apprise the Appellant about the passing of the impugned Judgment and Decree.

5. It was noted that both the Defendants had engaged separate lawyers and it cannot be said that they were devoid of appropriate legal services during the trial in the Trial court. The Appellants had participated in the proceedings along with their respective counsels. Once, it had already legal services of a lawyer, it cannot be pleaded that they were not aware of the Court procedures. They have not shown anything to reflect any handicap in obtaining legal advice.

6. Moreover, after the evidence of the Defendants, evidence was closed on 23.09.2023. Final arguments were addressed on behalf of the Plaintiff and Defendant No.1, but none appeared on behalf of Defendant No.2 despite opportunities being granted. The matter was kept for clarifications/Judgment on 23.12.2023 on which date the counsel for Defendant had appeared.

7. It was held that the conduct of the Appellants/Defendants did not meet the criteria of “sufficient cause” as an explanation given by the Defendant was neither a cause which is beyond the control of the party, nor was it a cause that can be termed as a bonafide cause.

8. There is no infirmity in the Order of the learned District Judge dated 27.11.2025, whereby the Condonation Application for condonation of delay in filing the Regular First Appeal, has been dismissed.



9. There is no merit in the present Regular Second Appeal, which is hereby, dismissed.
10. The Appeal stands disposed of along with the pending Application(s).

NEENA BANSAL KRISHNA, J.

FEBRUARY 13, 2026/va