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

+ RFA 227/2026, CM APPL. 15495-15498/2026

GOVT OF NCT OF DELHI

.....Appellant

Through: Mr. Anubhav Gupta, Panel Counsel
(Civil) GNCTD and Mr. Kartik
Sharma, Advocates.

versus

M/S SMAT FORMS

.....Respondent

Through: None.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

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13.03.2026

1. Appeal under Section 96 read with Order XLI Rule 1 of CPC has been filed on behalf of the Appellant against Judgment and Decree dated 11.01.2018, whereby the Suit of the Plaintiff / Respondent was decreed for recovery of Rs.5,39,918/- along with interest @ 8% per annum.
2. Appeal is supported with Application bearing CM APPL. 15496/2026 filed under Section 5 of Limitation Act read with Section 151 of CPC, seeking condonation of delay of 2877 days in filing the Appeal.
3. It is submitted in the Application that the Suit was filed before the learned District Judge, on 14.09.2016. Defendant Nos.1 and 2 are claimed to be served on 24.11.2016 and 18.11.2016 respectively. Since Defendants / Appellant failed to appear, their defence was struck off on 21.02.2017 and they were proceeded *ex-parte* on 24.10.2017. Thereafter, Suit of the Plaintiff / Respondent was decreed, vide Order dated 11.01.2018.
4. It is the submission of the Appellant itself that after receiving Notice



in the Execution Petition, Application under Order IX Rule 13 of CPC was filed on 04.10.2018, which got dismissed on 03.09.2024. Thereafter, they have been pursuing the Execution Petition. Now, they verified the Invoices and the documents and found that no Invoice was ever issued by the Department. Therefore, present Appeal has been filed to challenge the *ex-parte* Judgment and Decree dated 11.01.2018.

Submissions heard and record perused.

5. It is the submission of the Appellant itself that they were proceeded *ex-parte* on 24.10.2017. Though it was claimed that Appellant, which is a Government Department, was not served, but this contention did not find favour, when the Application under Order IX Rule 13 of CPC has been dismissed on 03.09.2024.

6. Pertinently, even though the Application under Order IX Rule 13 of CPC got dismissed on 03.09.2024, present Appeal has been filed on 25.02.2026, which is about almost 1.5 year later, for which there is absolutely no explanation. The typical assertions have been made that because of procedural approvals, inter-Departmental co-ordination, transition in the Office of SDM and the pendency of a similar matter before this Court, delay took place.

7. Reliance has been placed on Bhivchandra Shankar More vs. BaluGangaram More & Others, (2019) 6 SCC 387, wherein it has been observed that Right to Appeal under Section 96(2) of CPC, is a statutory right and the Defendant cannot be deprived of the statutory right of Appeal merely on the ground that the Application filed by him under Order IX Rule 13 of CPC has been dismissed. Furthermore, it is well settled that 'sufficient cause' should be given liberal construction so as to advance substantive



justice when there is no inaction, no negligence nor want of *bona fides*, be imputable to the appellant.

8. It is therefore, submitted that in the light of *bona fide* explanation to explain the delay, mere length of the same, must not be considered to deprive the Appellant of its statutory remedy of Appeal. However, as already noted above, there is absolutely no explanation forth coming for this in-ordinate delay in filing the Appeal.

9. In Bhivchandra Shankar More (*Supra*) also, it has been said that so long as the delay is found to be *bona fide* and there is sufficient cause, the length of delay may not be a determinative factor, in considering the Application under Section 5 of Limitation Act.

10. While it is a trite law that sufficiency of explanation for condonation of delay must be construed liberally and the statutory right should not be denied on procedural technicality, but here is a case, which is completely bereft of any reason, what to talk of sufficiency of reason. Despite dismissal of the Application under Order IX Rule 13 of CPC on 03.09.2024, Appellant has still chosen to pursue the Execution Petition and it is after 1.5 year, that they have decided to come in present Appeal.

11. There is absolutely no reason in condoning the delay. Therefore, CM APPL. 15496/2026, seeking condonation of delay of 2877 in filing the Appeal, is dismissed.

12. Accordingly, the Appeal and pending Application are also dismissed.

NEENA BANSAL KRISHNA, J.

MARCH 13, 2026/R