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

+ RFA 243/2026, CM APPL. 16786/2026 (stay), CM APPL.16787/2026 (for deposit deficiency of court fee)

ASHOK KUMAR & ANR.

.....Appellants

Through: Counsel for Appellants (appearance not given)

versus

ROOP RAM

.....Respondent

Through: None

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

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18.03.2026

CM APPL.16788/2026 (Exemption)

1. Exemption allowed, subject to all just exceptions.
2. The Application stands disposed of.

RFA 243/2026 & CM APPL.16789/2026 (delay)

3. Appeal under Section 96 of the Code of Civil Procedure, 1908 (*hereinafter referred to as 'CPC'*) has been filed on behalf of the Appellants against the Judgment and decree dated 07.11.2023, whereby the Suit of the Respondent, was decreed in the sum of Rs.8,00,000/- along with the interest @7% from 06.06.2021 till 11.07.2022 and also *Pendente Lite and Future Interest* at the same rate.
4. The Appeal is supported with an Application bearing CM APPL.16789/2026 under Section 5 of the Limitation Act whereby the



Appellant has sought condonation of delay of 855 days in filing the present Appeal.

5. It is submitted in the Application that the Appellant was never served in the Suit. Apparently, some service was shown through one Bhumi as daughter, but the name of the daughter of the Appellant is not Bhumi and apparently, she was some girl from the neighbourhood. There was no service effected on the Appellant.

6. He thereafter, moved an Application under Order 9 Rule 7 CPC where all the facts were disclosed but the Application also got dismissed.

7. Thereafter, the impugned Judgment and decree dated 07.11.2023 was passed.

8. Being the real sister of the wife of the Appellant, she assured that she would not be filing any Execution in respect of the Judgment and decree. However, she later turned dishonest in June, 2024 and filed the Execution Petition.

9. Thereafter, a meeting was held between the Appellants and the Respondent through the efforts of their common friends and relatives. It was mutually decided that the Respondent would withdraw the Execution Petition as she had filed it on ill-advise and that no amount was due from the Appellant. She assured that she would direct her counsel to withdraw the Execution Petition. After giving this assurance, she also did not appear in the Execution Petition for three days. However, thereafter, she again appeared before the Executing Court in December, 2025 to pursue her Execution Petition.

10. It is submitted that because of the false promise of the Respondent that she would withdraw the Execution Petition, there was a delay of about



855 days in filing the present Appeal. A prayer is, therefore, made that the same may be condoned accordingly.

Submissions heard and the record perused.

11. Interestingly, the decree was dated 07.11.2023 while as per the Appellant himself, the meeting was held in November, 2024. The time for filing the Appeal, was 90 days. Even if it is accepted that the Respondent had assured in November, 2024 that she would not pursue the Execution Petition but by then, the time for filing the Appeal, had lapsed.

12. The only claim made is that there was oral assurances by the Respondent that she would not pursue her Execution Petition, but as per the submissions made in the Application itself, not only was the Execution Petition filed in June, 2024 but has been pursued by the Respondent.

13. The reasons given in the Application, do not constitute any explanation whatsoever for explaining the delay of 855 days in filing the present Appeal.

14. The Application is dismissed accordingly. The present Appeal is consequently, dismissed. The pending Applications are also disposed of accordingly.

NEENA BANSAL KRISHNA, J

MARCH 18, 2026/RS