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

+ RFA 287/2026, CM APPL. 19461/2026, CM APPL. 19462/2026 &
CM APPL. 19463/2026

NARMADA & ORS.Appellants

Through: *Appearance not given*

versus

MS KALPANARespondent

Through:

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

% **27.03.2026**

1. Regular First Appeal under Section 96 of the Code of Civil Procedure, 1908 (CPC) has been filed to challenge the judgment dated 16.11.2024 whereby the Suit of possession of the Appellants has been decreed, but has been dismissed for mense profits.
2. It is submitted that no evidence could be led on this aspect by the Appellants and their evidence was closed thereafter.
3. An Application for leading the evidence on mesne profits along with the affidavit of a witness was filed, but again the witness could not be produced and the evidence was closed.
4. Since the witness was not forthcoming at that time, no evidence could be led and, therefore, the relief for mesne profits has been dismissed.
5. The Appeal is supported with an Application under Order XLI Rule 27 CPC for adducing additional evidence in respect of mesne profits, on the



ground that witness is now traceable and therefore, additional evidence can be permitted to be led.

6. Application 19462/2026 under Order XLI Rule 3(A) CPC read with Section 5 Limitation Act has been filed for condonation of delay in filing the first Appeal.

7. It is submitted that there is a delay of 187 out of which, 16 days were spent in obtaining the certified copy of the impugned judgment and after deducting the limitation period, the delay is calculated at 81 days in filing the present Appeal.

8. Smt. Narmada is a senior citizen suffering from various age old ailments and has severe back pain and cervical spondylitis and frequent indigestion and chest pain. She could not meet her Counsel to file the Regular First Appeal. In the last two weeks in the month of January, 2026, Smt. Narmada was suffering from viral fever accompanied with acute body pain. Furthermore, on account of wedding of the granddaughter of Appellant No. 1 which was fixed for 21.02.2026, the entire family of the Appellant got preoccupied in the preparation of the wedding and could not spare time to approach the Counsel without prejudice. The delay of 81 days be condoned.

9. ***Learned Counsel for the Respondent*** has explained that after the final judgment on 16.11.2024, a Review Application was filed which has been dismissed by the learned Trial Court on 22.08.2025 and the time taken in pursuing the Review Application is also liable to be excluded.

Submission heard and record perused.

10. There are as many as four Appellants, i.e., Narmada Devi, her son Pawan Kumar and two daughters, Renu and Archana. The only explanation given by the Appellant is that Narmada Devi is an old aged woman,



suffering from various ailments. There is no explanation given in regard to the other three Appellants as to why they were unable to approach the Counsel, for filing the Appeal.

11. There is no cogent explanation given in the present Application for condonation of delay; rather it is reflected from the submissions and the Applications filed by the Appellant that despite sufficient opportunities being given, the evidence could not be led as no witness was available.

12. There is no ground for condonation of delay and the Application is hereby, dismissed. Consequently, the Appeal along with pending Applications, is also dismissed.

NEENA BANSAL KRISHNA, J

MARCH 27, 2026

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