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

\+ RFA 877/2024, CM APPL. 73121/2024

MUNICIPAL CORPORATION OF DELHI .....Appellant

Through: Mr. Siddhant Nath (Standing counsel for MCD) Mr. Aman Khan (adv).

versus

RAJESH GUPTA .....Respondent

Through: Appearance not given.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

O R D E R

% **01.04.2026**

CM APPL. 73122/2024 (*under Section 5 of the Limitation Act read with Section 151 CPC on behalf of the Appellant seeking Condonation of Delay in filing the Appeal*)

1. An Application has been filed on behalf of the Appellant seeking Condonation of 293 days' delay in filing the present Appeal.

2. It is submitted in the Application that the Appeal has been preferred on 26.11.2024 to assail the Judgment and Decree dated 09.11.2023 on the ground that the Appellant MCD is a Government Organization, wherein for filing an Appeal procedural formalities inherent to a Government Organization have to be complied with. The permissions are required to be taken from multiple Departments and the approval process involves compliance with an established hierarchical procedures, which necessitate additional time. Further, even finalizing of any pleadings including Appeal, Writ, Counter-Affidavit of such commercial nature also taken procedural time as the same goes through various approvals. The present issue pertains to the period prior to the year 2000. Therefore, tracing out exact file and records was difficult and a time consuming process. The present Suit

pertains to the year 1999 and during the same time MCD was a unified Department. However, in the year 2012 it was trifurcated into three different Departments. The issue in question came under the jurisdiction of NDMC when the Suit was filed. However, later in the year 2022 the MCD was again unified into one municipality. Therefore, tracing out of records and verifying the same took some more time than expected. In the process delay of 293 days' taken place. A prayer is, therefore, made that the delay be condoned.

3. Learned counsel for the Respondent has vehemently opposed the Application and has submitted that it is nothing but a standard response of the Appellant, a Government Organization to firstly not work with expected expediency and thereafter come up with the stale same plea of the procedural delays and the hierarchical permissions that are required to be taken. It is submitted that there is no merit in the Application which is liable to be dismissed.

4. Learned counsel for the Appellant has vehemently contended that it was a case pertaining to Bills of 1999 while the Suit has been filed in the year 2012. Serious issues of limitation are involved and the Appellant should not be non-suited on the technical ground of delay of Appeal.

5. In the light of the submissions made, though it is difficult to decipher even a slightest reason for condonation of delay, but considering the submissions made, the Application is allowed.

6. The Application stands disposed of accordingly.

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7. Regular First Appeal under Section 96 of the CPC has been filed on behalf of the Appellant against the Judgment and Order dated 09.11.2023

whereby the Suit of the Plaintiff has been decreed in the sum of Rs.3,84,710/- along with interest @ 7% per annum from 04.09.2012 till the date of realization.

8. The facts in brief as stated by the Plaintiff in his Suit for Recovery was that it was a Contractor who had been engaged by the Appellant MCD vide Work Order dated 14.01.1999. The Plaintiff successfully completed the work to the satisfaction of MCD and raised three Bills totaling Rs.3,84,710/-. The Bills were duly passed by the Accounts Section of the Defendant and the payment was approved. However, before realization of the payment, certain CBI inquiry regarding RR cases of Division III. CBI took the records of various works of the Defendant and thus, the payment could not be cleared. In April 2010, concerned official advised the Department to obtain approval from Competent Authority to release the payments to the Contractor including that of the Plaintiff. The Plaintiff thus, sent the Legal Notices dated 30.08.2011 and 15.09.2011 to the Defendant despite which there was no compliance. Hence, the Plaintiff filed the Suit for Recovery of Rs.3,84,710/- along with interest @12% per annum.

9. The Defendant/Appellant in its **Written Statement** took a Preliminary Objection that the Suit is not maintainable as after bifurcation of MCD in three parts in April-May 2012 it is not one entity. Further, preliminary objection was taken that no legal and valid Notice under Section 477/478 of DMC Act was served upon the Defendant. Furthermore, it was claimed that averments made in the Plaint were vague and did not disclose any cause of action. Furthermore, the Suit was barred by limitation as the alleged work was completed in the year 1999 while the Suit had been filed in the 2012. On merits, it was stated that vide RC-57(A)/2003-DLI under

Section 120B IPC read with Section 420 IPC certain matters relating to RR cut including the work of the Plaintiff came under direct investigation of CBI and thus, the Bills of the Plaintiff were put on hold. Because the Accounts of the Plaintiff were seized by the CBI and therefore, the Bills of the Plaintiff could not be cleared.

10. On the pleadings ***Issues*** were framed on 03.05.2017 as under :

(i) Whether the Petitioner is entitled for recovery of suit amount? OPP

(ii) Whether the suit is not maintainable against the defendant on account of bifurcation of MCD in 2012? OPD

(iii) Whether the suit is barred by law of limitation? OPD

(iv) Relief.

11. The **Plaintiff** examined himself as **PW1**.

12. The **Defendant** despite being given an opportunity **failed to adduce any evidence** and the DE was closed on 25.05.2023.

13. The learned District Judge vide the impugned Judgment decided that the issue on limitation in favour of the Plaintiff and on merits decree the Suit in the sum of Rs.3,84,710/- along with interest @ 7% per annum from 04.09.2012 till the date of realization.

14. The learned counsel for the Appellant has essentially agitated that the Suit pertained to the Bills of the year 1999 and was patently barred by limitation when filed in the year 2012. Therefore, the impugned judgment be set aside.

Submissions heard and record perused.

15. The issue of limitation has been decided by the learned District Judge by observing that though the Bills had been approved in the year 1999, but as per the submissions of the Appellant MCD itself the records were seized by the CBI and the Bills could not be cleared. The Plaintiff had filed an RTI dated 30.07.2012 Ex.PW1/14, wherein it was clearly stated that the Bill of Rs.3,84,710/- had not been cleared and as per the Letter dated 25.08.2011 of the Accounts Department, S.P Zone, the liability was still pending and payable by MCD. In the Reply Ex.PW1/15 given in response to RTI it was clearly stated that the list of outstanding Bills (R/R cut) issued on 25.08.2011 Ex.PW1/13 was payable to the Contractor and were kept pending on account of CBI investigation. These Letters clearly acknowledged the outstanding amount due to the Plaintiff. In terms of Section 25(3) Contract Act it amounts to a fresh contract and, therefore, it was held that the Suit was not barred by limitation.

16. The issue of limitation has been decided by the learned District Judge in accordance with law and does not merit any interference.

17. There is no merit in the present Appeal which is hereby dismissed.

18. It is submitted that the Decretal amount has already been deposited with the learned Registrar General of this Court, which be released to the Respondent/Plaintiff.

19. The Appeal is disposed of accordingly along with the pending Application(s).

NEENA BANSAL KRISHNA, J.

APRIL 01, 2026/*va*