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

+ RFA 1195/2025, CM APPL. 82522/2025

VIRESH CHOPRA

.....Appellant

Through: Mr K Venkatraman and Mr Avinash
Advocates.

versus

THARVINDER SINGH (NOW DECEASED)
THROUGH LRS.

.....Respondent

Through:

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

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13.01.2026

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1. Regular First Appeal under Order XLI rule 1 read with Section 96 of CPC has been filed on behalf of the Appellant against the impugned Order dated 23.12.2023 passed by learned ADJ-07, Delhi, vide which the Suit of the Plaintiff was dismissed on account of non-payment of the deficit Court Fee.
2. The Plaintiff had filed a Suit for Recovery of Rs.87.70 lakhs on which the requisite Court Fee could not be paid. Thereafter, the Suit for Specific Performance and Permanent Injunction was filed on 09.02.2015. The Appellant then moved an Application for extension of time to pay the deficit Court Fee under Section 148 CPC which was dismissed as withdrawn on 03.12.2018. Thereafter, the Appellant moved an Application under Section VI Rule 17 CPC which was allowed vide Order dated 28.07.2020.
3. Learned counsel for the Appellant amended the Plaint on 28.07.2020



and withdrew his name. Thereafter, the Plaintiff No.2 died and the Application under Order 22 Rule 3 CPC was filed by Plaintiff No.1 on 29.01.2021. The Suit of the Appellant got dismissed in default on 22.03.2021. The Application under Order 9 Rule 4 CPC was filed which was allowed subject to cost of Rs.25,000/- and on 21.04.2021 the Application under Order 22 Rule 4 was allowed but the Application under Order 22 Rule 3 CPC was kept pending.

4. The Defendants/Respondent filed CRP No.60/2020 challenging the Order dated 28.07.2020, whereby the Application under Order 6 Rule 17 CPC was allowed and Application under Order 7 Rule 11 CPC was dismissed by this Court vide Order dated 04.01.2020 as infructuous.

5. The learned Trial Court rejected the Suit of the Appellant on 23.12.2023 under Order 7 Rule 11 CPC for deficit Court Fee and non-filing of amended Plaint. It is submitted that amended Plaint had already been filed on time on 28.07.2020, but due to procedural deficiency of non-stamping of the amended Plaint, there was no date of filing mention on the amended Plaint. The Appellant filed CM Main No.2272/2025 which was dismissed as withdrawn on 02.11.2025. Hence, the present Appeal has been preferred.

CM APPL.82521/2025 (under Section 5 of Limitation Act read with Section 151 CPC on behalf of the Appellant for Condonation of Delay of 729 days in re-filing the Appeal)

6. An Application has been filed on behalf of the Appellant for condonation of delay of 792 days in re-filing the Appeal.

7. It is submitted in the Application that the Appellant is an old man with a history of illness. Despite sincere efforts to obtain the certified copies



of the relevant record document, he could not procure the same on time due to which there was an unavoidable and unfortunate delay. After the Suit was dismissed, the Appellant was constrained to change several Advocates owing to lack of proper legal guidance and advice. Each change of counsel resulted in the Appellant to re-explain the entire matter, trace records and obtain fresh opinion which cumulatively consumed considerable time and led to the delay.

8. It is a settled principle of law that the litigant should not be made to suffer for lapses, inaction or circumstances beyond his control, particularly when the delay is not attributable to any negligence or lack of diligence on the part of the Appellant. The Appellant has acted bona fide and with due diligence at every stage and has been pursuing his legal remedies. The Supreme Court has consistently held that the Court must adopt the liberal approach while considering the Applications for Condonation of Delay.

9. The Appellant approached the previous Counsel for filing of Appeal in February, 2024, but the Appeal could not be filed. He changed his counsel and filed C.M. Main No.2272/2025 in November, 2025, which was withdrawn and the present Appeal has been filed.

10. The delay of 729 days in filing the Appeal may, thus be condoned and the Application is allowed.

Submissions heard.

11. From the submissions made in the Application for Condonation of Delay, there is no cogent reason given. It is the submission of the Appellant that he had been meeting various counsels over a period of 729 days. Even a Review got filed as submitted by the Counsel for the Appellant which got dismissed for the Appellant, to claim that he was not getting proper legal



advice, is not borne out from the contents of the Application itself.

12. There is no ground for Condonation of Delay. The Application is hereby dismissed.

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13. Consequently, the Appeal is also dismissed.

14. The Appeal stands disposed of along with the pending Application(s).

NEENA BANSAL KRISHNA, J.

JANUARY 13, 2026/va