2026:AHC:211470

HIGH COURT OF JUDICATURE AT ALLAHABAD

CIVIL REVISION No. - 76 of 2019

Laxmi Narayan (Deceased) And 5 Others

.....Revisionist(s)

Versus

Omi And Another

.....Opposite Party(s)

Counsel for Revisionist(s)	:	Ankit Prakash, Manas Bhargava, Rashi Misra
Counsel for Opposite Party(s)	:	Dinesh Kumar Singh

Court No. - 54

HON'BLE ANIL KUMAR-X, J.

1. Learned counsel for the revisionists is present. None appeared for the respondents even in revised call.

2. This civil revision has been preferred by the revisionists against the impugned order dated 08.02.2019 passed by Additional Civil Judge (Senior Division) Court No.2, Mathura in Misc. Case No. 08/2018 (Omi and others Vs. Laxmi Narayan and others) arising out of Misc. Case No.23 of 2002 in Original Suit No. 506 of 1994 by which delay condonation application has been allowed by the trial court on the cost of Rs.5,000/-.

3. For the sake of convenience, the parties hereinafter shall be referred to by their nomenclature as assigned in the plaint. The revisionists are the plaintiffs and the respondents are the defendants in the aforesaid suit.

4. Learned counsel for the revisionists submitted that the plaintiffs instituted a suit which was decreed ex-parte in favour of the revisionist/plaintiffs. Thereafter, the defendant-respondent opposed the ex-parte decree by filing an application under Order IX Rule 13 CPC for setting aside the ex-parte decree passed in favour of the revisionist/plaintiffs. The said application under Order IX Rule 13 CPC was also dismissed for non-prosecution. Subsequently, another restoration application was moved before the trial court after 22 months alongwith delay condonation application under Section 5 of the Limitation Act, for recalling the dismissal order passed on the earlier application under Order IX Rule 13 CPC. It is evident that the delay was of 22 months which was

apparent from the perusal of the delay condonation application as well as from the available circumstances. However, the delay condonation application filed by the respondent-defendants was allowed by the trial court by adopting a liberal approach and imposing a cost of Rs.5,000/-. It was contended that the trial court itself has mentioned that the cause shown by the respondent is not sufficient as neither had he submitted any medical document to establish his illness nor has he given any plausible explanation for appearing before the concerned court after an inordinate delay.

5. Heard learned counsel for the revisionist and perused the order dated 08.09.2019.

6. It is evident that the delay condonation application has been allowed by the trial court without any application of mind and without considering that the delay has to be condoned by any court by following the principles established under Section 5 of the Limitation Act. It is incumbent upon a Court dealing with a delay condonation application to determine whether the cause shown by the applicant is sufficient or not. Unless a Court comes to a conclusion that the cause shown is sufficient, it cannot blindly allow the delay condonation application by adopting a liberal approach or by imposing cost. Hence, the order passed by the trial court is not sustainable.

7. For the aforesaid reasons, this civil revision is **allowed**. The impugned order dated 08.02.2019 passed by the trial court is set aside.

(Anil Kumar-X,J.)

October 8, 2026
SK

Digitally signed by :-
SUSHEEL KUMAR
High Court of Judicature at Allahabad