



2025:DHC:1406-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ LPA 142/2025 & CM APPL. 11331/2025, CM APPL. 11332/2025
M/S KAVITA ENTERPRISESAppellant
Through: Mr. Natwar Rai, Advocate

versus

AIRPORT AUTHORITY OF INDIARespondent
Through: Ms. Anjana Gosain and Ms. Nippun
Sharma, Mr. Anuj Kumar,
Advocates

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Date of Decision: 28.02.2025

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

TUSHAR RAO GEDELA, J: (ORAL)

1. Present appeal has been preferred under clause X of the Letters Patent Appeal assailing the judgement dated 02.12.2024 in WP(C) 4530/2022 titled "*M/s. Kavita Enterprises vs. Airport Authority of India*", whereby the learned Single Judge has dismissed the writ petition filed by the appellant on the grounds of adjudication of unexplained delay and laches; lack of necessary particulars and that the petition involved disputed questions of facts.

2. The case of the appellant before the learned Single Judge was that various contracts were executed between the appellant and the respondent during the years 1993 to 1996 and sixteen Fixed Deposit Receipts (FDRs) have been deposited and are still being withheld by the respondent under



various contracts. It is alleged that during multiple personal meetings, respondent consistently agreed to return the FDRs upon completion of formalities on their part, however, these assurances have not been fulfilled. Additionally, the appellant submits that they have executed other contracts for the respondent, for which no action has been initiated. Under these circumstances, the appellant filed the underlying writ petition seeking the return of FDRs and EMDs dating back to the years 1993 to 1996 for work executed by the petitioner at the Regional Headquarters, Operational Officer located at Rangupri, Gurgaon Road, New Delhi. The learned Single Judge dismissed the writ petition filed by the appellant on the grounds of claims being time barred; not maintainable on account of delay and laches; lack of necessary particulars and that the claim involves determination of disputed questions of facts. Hence, the appellant has filed the present appeal.

3. The case of the respondent before the learned Single Judge was that the claims were time-barred and that the petition was grossly impeded by delay and laches, as it pertains to FDRs furnished between the years 1993 and 1996. The respondent asserts that the claims lacks corresponding details of the contracts under which these FDRs were allegedly submitted and cannot be examined in the absence of documentation and for this purpose, multiple letters were issued by the respondent for details of the said FDRs and EMDs which have not been provided by the appellant. Further, on 02.05.2006, the management and operation of Indira Gandhi International Airport was transferred to GMR Group resulting in shifting of many records and therefore, the respondent has limited documents pertaining to the appellant and they cannot be expected to retrieve records



or verify claims related to events that transpired over two decades ago. It is also highlighted that the appellant only sought to revive these claims through a communication dated 31.03.2018 after a lapse of 25 years. This belated communication does not extend the period of limitation, and any claims regarding the FDRs are *ex-facie* time-barred.

4. Having heard Mr. Natwar Rai, learned counsel for the appellant and perused the impugned judgment as also the documents on record we are unable to find any merit in this appeal even to issue notice.

5. We are cognizant of the fact that learned Single Judge in the impugned judgment has succinctly dealt with the issue raised in the underlying writ petition by examining the same under various aspects like claim being barred by limitation; the underlying writ petition not being maintainable on account of insurmountable, inexplicable and unexplained delay and laches; the underlying writ petition being bereft of necessary material particulars and issues which involve delving into disputed questions of facts; and lastly the encashment of the FDRs which are subject matter of the underlying writ petition and non-compliance with statutory obligations.

6. On pertinent questions, learned counsel appearing for the appellant has been unable to explain, much less offer, any "*sufficient cause*" as to why the appellant had not approached the appropriate Court of competent jurisdiction for redressal of his grievances in reasonable time. Learned counsel, as an argument refers to Section 17 of the Limitation Act, 1963 (hereinafter referred to as "*the Act*") to submit that the said provision would enure to the benefit of the appellant, inasmuch as, the respondent despite the contracts having been completed by the appellant, had asked the



appellant to renew the FDRs in question from time to time. We are unable to find any merit in the said contention. Section 17 of the Act appears to be saving the limitation in respect of a very limited types of suits based on fraud or mistake. In the present case there is neither any averment nor any argument, that there is a mistake committed by a party or that the underlying writ petition was predicated on a fraud committed. That apart the said section appears to be limited to a suit or an application instituted before a Court of competent civil jurisdiction.

7. To the query regarding lack of material particulars and details regarding the FDRs in question, learned counsel submits that the appellant is unaware of the FDRs and their status. He refers to pg.67 of the paperbook (Annexure P-4) to submit that the details of FDRs were indeed handed over to the respondent. We have perused the said annexure and find that all the FDRs referred to are of the years 1993, 1996 and 1997. Learned counsel was unable to respond to or answer as to what prevented the appellant from taking appropriate steps or measures to seek encashment of the said FDRs in question or even to raise the claim against the respondent in time. In that view of the matter, it is apparent that the appellant did not take any action to seek refund/encashment of the FDRs in question within the period of limitation. *Ex facie* the claims are absolutely barred by limitation. From the records it is apparent that the underlying writ petition was filed only in the year 2022, much after the cause of action arose as also after an inordinate, inexplicable and unexplained delay. Though there is no such prescription for filing of writ petition, yet the same ordinarily ought to be filed within a “reasonable period”. What constitutes “reasonable period” is no more *res integra*. The Supreme Court in *Mrinmoy Maity vs.*



Chhanda Koley & Ors.; 2024 SCC OnLine SC 551, has authoritatively explained as to what would constitute “reasonable period”. The relevant para is extracted hereunder:

“9. ...An applicant who approaches the court belatedly or in other words sleeps over his rights for a considerable period of time, wakes up from his deep slumber ought not to be granted the extraordinary relief by the writ courts. This Court time and again has held that delay defeats equity. Delay or laches is one of the factors which should be born in mind by the High Court while exercising discretionary powers under Article 226 of the Constitution of India. In a given case, the High Court may refuse to invoke its extraordinary powers if laxity on the part of the applicant to assert his right has allowed the cause of action to drift away and attempts are made subsequently to rekindle the lapsed cause of action.

10. The discretion to be exercised would be with care and caution. If the delay which has occasioned in approaching the writ court is explained which would appeal to the conscience of the court, in such circumstances it cannot be gainsaid by the contesting party that for all times to come the delay is not to be condoned. There may be myriad circumstances which gives rise to the invoking of the extraordinary jurisdiction and it all depends on facts and circumstances of each case, same cannot be described in a straight jacket formula with mathematical precision. The ultimate discretion to be exercised by the writ court depends upon the facts that it has to travel or the terrain in which the facts have travelled.

11. For filing of a writ petition, there is no doubt that no fixed period of limitation is prescribed. However, when the extraordinary jurisdiction of the writ court is invoked, it has to be seen as to whether within a reasonable time same has been invoked and even submitting of memorials would not revive the dead cause of action or resurrect the cause of action which has had a natural death...”

8. We note with approval, the learned Single Judge’s observation that the appellant did not furnish any plausible explanation for the extraordinary delay in asserting its claims and though it had the option to pursue civil remedies within the limitation, yet miserably failed to do so. Learned Single Judge was also right in noting that a writ petition cannot be a substitute to a civil suit, particularly where the reliefs are hopelessly barred



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by limitation and also involve delving into disputed questions of facts.

9. The present appeal is absolutely devoid of any merit at all and as such is dismissed *in limine*, however without any order as to costs.

TUSHAR RAO GEDELA, J

DEVENDRA KUMAR UPADHYAYA, CJ

FEBRUARY 28, 2025/rl