



2025:DHC:7689



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

% *Date of Decision: 1<sup>st</sup>, September, 2025*

+ FAO 242/2025 & CM APPL. 54970-54971/2025

POORAN KUMAR

.....Appellant

Through: Mr. D.K. Singh, Advocate along with  
appellant in person.

versus

M/S. PRIDE HOTELS LTD

.....Respondent

Through: None.

**CORAM:**

**HON'BLE MR. JUSTICE MANOJ JAIN**

**J U D G M E N T (oral)**

1. Appellant had filed a suit seeking recovery.
2. The suit was filed before this Court on its Original Side but with the change in pecuniary jurisdiction, it got transferred to District Courts.
3. When the abovesaid suit was taken up by the learned District Courts on 01.09.2019, it was dismissed for *non-prosecution* for the reason that there was no appearance from the side of the plaintiff.
4. After, virtually, five years, an application under Order IX Rule 9 CPC was filed by the plaintiff seeking restoration of his suit.
5. According to him, on account of untimely death of his father on 12.08.2019 (prior to the date of dismissal of the suit), he suffered mental agony and could not follow up the matter for some months. He also mentioned, in his application, that he was under the impression that his counsel would take care of the suit and, therefore, he never bothered to check



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the dates on regular basis as he was fully dependent upon his counsel, who always assured him that he was acting in his best interest. According to him, when he contacted his counsel in March, 2020, he was apprised that his case had been adjourned *sine die* and would only be taken up once the pandemic of Covid-19 was over.

6. According to him, some of the similarly situated claimants had gone to National Company Law Tribunal (NCLT) seeking relief against the same defendant and, when he learnt that some of such claimants had been able to get relief from concerned *Resolution Professional* (RP), he immediately contacted RP appointed by NCLT who apprised him that his claim was not there with him and, therefore, he approached a new counsel who then told him that his matter had already been *dismissed-in-default* way back on 01.11.2019.

7. Interestingly, according to plaintiff, appellant, though, he had been able to contact a new counsel, but his agony continued as even his new counsel fell sick and underwent surgery and, therefore, nothing could be done for another couple of months.

8. It was in the abovesaid backdrop that he filed an application under Order IX Rule 9 CPC seeking restoration of his suit and the grievance is with respect to dismissal of his such application.

9. Reference be made to *Union of India vs Jahangir Byramji Jeejeebhoy: SCC OnLine SC 489* wherein Hon'ble Supreme Court has observed that length of delay is also a relevant fact which the Court should take into account while considering whether the delay should be condoned or not. It observed that the Court owed a duty to first ascertain the bona fides of the explanation offered by the parties seeking condonation and it is only when sufficient cause



is assigned, the Court may bring in to aid the merits of the matter for the purposes of condoning the delay. It also observed that the question of limitation was not merely a technical consideration and the rules of limitation were based on principles of sound public policy and principles of equity and “*Sword of Damocles*” cannot be kept hanging for indefinite period and the Hon“ble Supreme Court while taking note of various precedents refused to condone the delay of 12 years observing that delay could not be taken as “*a matter of generosity*” and since the applicants had failed to prove that they were reasonably diligent in prosecuting the matter, the vital test for condoning the delay was not satisfied.

10. The learned Trial Court has, while dismissing the application, observed as under:-

*“It is the settled law that for allowing application for condonation of delay, there has to be a sufficient cause. Sufficient cause means there is no malafide, inaction or negligence on the part of the applicant. However, in the present application, no specific ground is mentioned, where the present application for condonation of delay can be allowed. The only ground given by the applicant is that the previous counsel has not informed the applicant about the status of the case. In the present situation, every information pertaining to case is available online which can be availed by any person including applicant. However, there is nothing on record to substantiate his claims that it was due to the counsel's mistake that suit was dismissed for non-prosecution. No complaint / action initiated against the advocate and bare oral submissions are not sufficient. Moreover, this suit was dismissed on 01.11.2019 and the present application is filed on 25.03.2023, such a prolonged delay can not be allowed in circumstances of the present case. Thereby the present application for condonation of delay is dismissed alongwith the application U/O 9 Rule 9 CPC is also dismissed on merits.”*

11. Quite clearly, the delay in the present matter is on account of the matter being pursued without showing any due diligence. The approach shown by plaintiff is clearly a lackluster one and is suggestive of the fact that he had,



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virtually, abandoned his claim and lost any interest therein.

12. The last-ditch effort to seek relief by shifting the entire onus to the previous counsel is also of no avail as this Court in *Moddus Media Pvt. Ltd. vs. Scone Exhibition Pvt. Ltd.: 2017 SCC Online Del 8491* has observed that a litigant owes duty to be vigilant of his rights and is expected to be equally vigilant about the judicial proceedings pending in the court of law against him or initiated at his instance. It was further observed that litigant cannot be permitted to cast the entire blame on its advocate with a view to get the delay condoned.

13. Moreover, status updates are available on website of Delhi District Courts and, even alerts are generated and transmitted automatically to the concerned parties and counsel wherever they have got their mobile numbers registered. The appellant himself is responsible for his miseries as he did not bother to pursue his suit in the manner it should have been and has woken up from his slumber only when he, somehow, learnt that some other person had obtained relief in parallel proceedings.

14. The learned Trial Court has refused to condone the delay and the exercise of jurisdiction in this regard does not seem to be arbitrary or perverse and, therefore, this Court does not find any merit in the present appeal.

15. The appeal is, accordingly, dismissed *in limine*.

**(MANOJ JAIN)**  
**JUDGE**

**SEPTEMBER 1, 2025/ss/pb**