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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ RFA(COMM) 239/2025, CM APPL. 25358/2025, CM APPL.  
25359/2025 & CM APPL. 25360/2025

DILSHAD .....Appellant

Through: Mr. Waseem Akhtar Khan,  
Advocate.

versus

KISHORE ARORA .....Respondent

Through:

**CORAM:**  
**HON'BLE MR. JUSTICE C. HARI SHANKAR**  
**HON'BLE MR. JUSTICE OM PRAKASH SHUKLA**

**ORDER(ORAL)**

**29.01.2026**

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**C. HARI SHANKAR, J.**

1. This appeal has been preferred under Section 13 of the Commercial Courts Act, 2015 read with Order XLIII Rule 1 of the Code of Civil Procedure, 1908<sup>1</sup>, with a delay of 807 days.

2. The judgment and decree under challenge was passed on 17 November 2022. The appeal has come to be filed in April 2025. The application for condonation of delay, from paras 1 to 5, advert to events which took place prior to passing of the judgment and decree under challenge on 17 November 2022, including the COVID-19 pandemic. We fail to understand how these aspects are at all relevant

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<sup>1</sup> "CPC" hereafter



to a prayer for condonation of delay in filing the appeal against a decree which was passed on 17 November 2022.

3. The averments in the application proceed on a premise that the appellant came to know of the case against him only on 19 January 2024 when he received the summons for execution of the impugned *ex parte* decree from the Process Server. To a query from the Court as to whether summons in the suit were served on the appellant, learned Counsel is unable to assist the Court.

4. Nonetheless, giving the appellant the benefit of doubt, we have examined whether any case is made out even to condone delay after 19 January 2024 till April 2025 when the appellant was served. We have considered this keeping in mind the law laid down in ***Government of Maharashtra v. Borse Brothers Engineers & Contractors Pvt Ltd***<sup>2</sup> in which the Supreme Court has held that, in commercial matters, the Court has to adopt a very strict stance while considering applications for condonation of delay and there has to be a clear and cogent explanation for the delay.

5. No such explanation, worth the name, is forthcoming from the application for condonation. Assuming, *arguendo*, that the appellant came to know of the impugned judgment and decree on 19 January 2024, we find nothing in the application which explains why the appellant did not file an appeal within the statutory period even reckoned from 19 January 2024.

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<sup>2</sup> (2021) 6 SCC 460



6. Mr. Waseem Akhtar Khan, who appears for the appellant submits that the appellant filed an application under Section 47 of the CPC for discharge and satisfaction of the decree passed by the learned Commercial Court. The averments in the application for the condonation of delay essentially advert to the proceedings which took place in the said application.

7. We do not understand how the filing of an application under Section 47 of the CPC can at all be a ground to condone the delay in filing the appeal against the impugned judgment and decree, passed as far back on 17 November 2022, even if we assume knowledge of the said judgment and decree to have been possessed by the appellant with effect from 19 January 2024.

8. It is further averred, in the application, that the appeal could not be filed within the prescribed period of limitation “due to ongoing efforts with the respondent to mitigate the dispute” and as the appellant was a “lay person without legal knowledge ..... unaware of the remedies available under the law.”

9. These, to say the least, cannot constitute grounds for condonation of delay.

10. In commercial matters, we are unable to exercise the latitude which we would otherwise exercise in non-commercial matters while dealing with a request for condonation of delay.



**11.** Within the parameters of the law laid down by the Supreme Court in *Borse Brothers Engineers (supra)* which we have reiterated in our decision in *Casablanca Apparels Pvt Ltd v. Polo/ Lauren Company L.P.*<sup>3</sup>, we are of the opinion that no ground for condoning delay as inordinate as 807 days from the passing of the impugned judgment and decree is made out. If such inordinate delay is condoned without any reasonable explanation, it would set at naught the principle that commercial matters should be brought to a speedy resolution.

**12.** The application for condonation of delay is dismissed.

**13.** Resultantly, the appeal is also dismissed on the grounds of delay, without going into the merits.

**C. HARI SHANKAR, J.**

**OM PRAKASH SHUKLA, J.**

**JANUARY 29, 2026/pa**

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<sup>3</sup> 2025 SCC OnLine Del 5191