



2025:DHC:9847



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of decision: 07.11.2025*

+ W.P.(C) 11145/2020

MS KAMLA BHEL CO PVT LTD

.....Petitioner

Through: Mr. Vivek Yadav and Ms. Bhavika
Kohli, Advocates

versus

SMT SUNITA MEHTA & ORS.

.....Respondents

Through: Mr. Abhinav Singh and Ms. Bharti
Yadav, Advocates for R-2 & R-3
Mr. Shekhar, Advocate**CORAM:****HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA****JUDGMENT (ORAL)****CHANDRASEKHARAN SUDHA, J.****CM APPL 10258/2025 (for Restoration)****CM APPL 10259/2025 (delay)****CM APPL 26757/2025 (for release of the amount)**

1. CM APPL 10258/2025 has been filed under Order IX Rule 9 of the Civil Procedure Code, 1908 by the petitioner seeking restoration of the aforesaid writ petition, which was dismissed for non-prosecution on 07.03.2024. This application has been filed



along with **CM APPL 10259/2025** seeking condonation of delay of 347 days in filing the restoration application.

2. In the application for condonation of delay, the allegation is that the non-appearance of the petitioner was neither wilful nor deliberate, but was solely attributable to the gross negligence and professional misconduct of the counsel earlier engaged by him. The earlier counsel had not only misrepresented facts, but had also extracted substantial legal fees claiming to be diligently prosecuting the case. The petitioner was never informed about the dismissal of the writ petition. There is no deliberate laches on the part of the petitioner who has acted diligently on discovering the dismissal of the writ petition and has approached the Court seeking restoration.

3. The application is opposed by respondent No. 1 who has filed a reply contending that there are no *bona fides* in the petition and as reasons cited are insufficient, the application is liable to be dismissed.



4. The learned counsel for the petitioner submits that the delay occurred solely due to the lapse and negligence of the counsel earlier engaged by the latter, who neither appeared on the relevant dates nor informed the petitioner about the dismissal of the writ petition. The petitioner was under the *bona fide* belief that the matter was being diligently prosecuted. It is urged that the delay was neither wilful nor deliberate and that the petitioner has a meritorious case which deserves adjudication on merits.

5. During the course of arguments, when the entire blame for the delay was put on the counsel earlier engaged by him, a query was put by the Court as to whether any action had been taken against the counsel concerned, who is alleged to have misled the petitioner into believing that the matter was being diligently prosecuted after extracting substantial fees from him. It was stated that the petitioner had discussed the matter with the earlier counsel, that the matter has been amicably settled with the counsel and hence the petitioner decided not to proceed against the counsel



concerned.

6. It is submitted by the learned counsel for respondent no. 1 that the explanation furnished is wholly unsatisfactory and lacks *bona fides*. It is submitted that no document/correspondence has been produced to show that the petitioner had made any effort to ascertain the status of the matter from the earlier counsel. Rather, the explanation is that the matter with the previous counsel has been “settled”, and no action has been taken or contemplated against him. It is contended that such a casual and indifferent approach cannot constitute “sufficient cause” for condonation of delay under Section 5 of the Limitation Act, 1963 (the Act).

7. Heard both sides.

8. The writ petition was dismissed on 07.03.2024 after the petitioner remained absent on two consecutive dates, that is, on 06.09.2023 and 01.02.2024. Though the delay is stated to be 347 days, the delay seems to be around 380 days, which is apparently more than an year. The explanation sought to be offered for the



delay attributes the entire lapse to the petitioner's previous counsel. The petitioner, however, admits to having taken no action whatsoever against the said counsel and, in fact, claims to have "settled" the matter with him. Once such settlement is pleaded, the petitioner cannot, in the same breath, seek indulgence of the Court on the ground of the said counsel's alleged negligence.

9. It is well settled that the expression "sufficient cause" is to be construed with due regard to the conduct of the applicant. A litigant who remains indolent and chooses to take no steps to safeguard his interest cannot, after an inordinate lapse of nearly one year, seek condonation of delay by merely shifting the entire blame on the counsel.

10. The explanation offered does not inspire confidence and falls short of the standard required to invoke the discretion of this Court under Section 5 of the Act. No "sufficient cause" is made out for condonation of the delay.

11. In view of the foregoing, this Court is of the opinion that no



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sufficient cause has been made out for recalling the order dated 07.03.2024. Hence, the application for condonation of delay, being devoid of merit, is accordingly dismissed.

12. Consequently, the writ petition, along with pending application(s), if any, shall remain dismissed for non-prosecution.

**CHANDRASEKHARAN SUDHA
(JUDGE)**

NOVEMBER 7, 2025

p'ma/RN