



2026:DHC:2425-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ FAO (COMM) 24/2025 and CM APPLs. 4367-68/2025 and
4419/2025

HARSHA ASSOCIATES PVT. LTD.Appellant

Through: Mr. B.S. Bagga, Mr. Sarthak
Mogha, Ms. Radhika Vashisht, Advocates

versus

MAHESH CHAND GUPTARespondent

Through: Mr. Bhoop Singh and Mr.
Naveen Rai, Advocates

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

19.03.2026

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C. HARI SHANKAR, J.

1. This appeal is directed against an order dated 26 August 2023, passed by the learned District Judge (Commercial Court), Shahdara, whereby the suit of the appellant has been returned under Order VII Rule 10 of the Code of Civil Procedure, 1908.

2. This being a commercial appeal, we are bound by the law laid down by the Supreme court in *Jharkhand Urja Utpadan Nigam Ltd v. Bharat Heavy Electricals Limited*¹ and *Government of*

¹ 2025 SCC OnLine SC 910



*Maharashtra v. Borse Brothers Engineers & Contracts Pvt Ltd.*², which require the Court to be strict while applying principles of limitation and considering applications for condonation of delay in commercial matters. The delay in this case is inordinate, of as many as 410 days³.

3. The ordinary period of limitation available for filing the appeal expired in or around 25 October 2023. Even if 30 days' condonable period were taken into account, it would expire towards the end of November 2023. The explanation provided in the application is that the counsel appearing for the appellant did not inform the appellant about the dismissal of his suit on 26 August 2023, the appellant was undergoing heart treatment in the hospital for the period November 2023 to May 2024, the appellant, having been informed that a Regular First Appeal would lie against the impugned order, was arranging court fees for the appeal, and was only advised in October 2024 that he was required to file a First Appeal against Order.

4. The Supreme Court has in *Rajneesh Kumar v Ved Prakash*⁴ held that it is not open to a litigant to throw the blame on counsel while seeking to explain delay in approaching the Court.

5. That apart, the admission of the appellant in the hospital was itself after the normal period of limitation had expired in November 2023. The limited period of treatment of the appellant, even as per the medical records, ended in May 2024.

² (2021) 6 SCC 460

³ Though the application for condonation of delay seeks condonation of 410 days' delay, in actuality its 440 days.

⁴ 2024 SCC OnLine SC 3380



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6. There is no explanation worth the name, for the delay between May 2024 and January 2025 when the appeal came to be filed.

7. The submission that the appellant was erroneously advised that he had to file an RFA, and was arranging funds for filing the RFA, is not substantiated by a single document on record. No communication from the earlier counsel to the appellant stating that an RFA would lie is forthcoming. Equally, the stand that a new counsel who was engaged by the appellant informed him in October 2024 that an FAO would lie, is also unsupported by any documentary material. *Prima facie*, these are mere afterthoughts.

8. Keeping in mind the law relating to condonation of delay in commercial matters, we regret that we are in no position to condone delay of as much as 410 days in preferring the present appeal.

9. Solely on the ground of delay and without entering into merits of the dispute, the appeal, as well as all applications filed therewith, are dismissed.

C. HARI SHANKAR, J

OM PRAKASH SHUKLA, J

MARCH 19, 2026/yg