



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

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*Reserved on: 12th January, 2026
Pronounced on: 6th April, 2026*

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RSA 7/2026, CM APPL. 1461/2026

SALIM

S/o. Sh. Abbul Hasan,

Currently residing at:

Khasra No. 136/9/2, Bhaya Lane,

Lal Dora Village, Near Shyam Properties,

Sant Nagar, Burari, Delhi-110084

Mob. No.: +91-9643437955

.....Appellant

Through: Mr. Manish Sharma, Mr. Abhishek
Verma, Mr. Vikas Sharma, Mr. Chetan
Anand Yadav, Advs.

versus

SANJAY GARG

S/o. Sh. Prem Chander

R/o. B-6/53, Sector-11,

Rohini, Delhi-110085

Mob. No.: +91-9811250341

.....Respondent

Through: None.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. This Regular Second Appeal has been preferred under Section 100 of the Code of Civil Procedure, 1908 (CPC), assailing the Order dated 17.10.2025, passed by the Ld. District Judge-11, Delhi, First Appellate Court, whereby the Appeal filed by the Appellant/Defendant herein was



dismissed *on the ground of limitation*, and the decree dated 18.03.2025 passed by the Ld. Civil Judge-06, Delhi, in favour of the Plaintiff/Respondent for possession, recovery of arrears of rent, and mesne profits was upheld.

2. The Plaintiff/Respondent filed a CS SCJ No. 99731/2016 for Possession of the suit property, arrears of Rent (*claimed at Rs. 66,000/-*), along with *pendente lite* and future interest, mesne profits and costs before the Ld. Civil Judge (Central), Delhi.

3. *The brief facts*, as narrated in the Plaint are that the Appellant/Defendant, namely Salim, was inducted as a tenant in the property bearing Khasra No. 136/9/2, Bhaya Lane, Lal Dora Village, Near Shyam Properties, Sant Nagar, Burari, Delhi-110084, (*hereinafter referred to as "Suit Property"*), by the Respondent/Plaintiff, namely, Sanjay Garg, at a monthly rent of Rs. 5,500/- excluding electricity and water charges.

4. The Defendant/Appellant, defaulted in payment of rent with effect from 01.08.2014. Despite service of demand Notices, the Defendant failed to clear the outstanding dues. The tenancy was thereafter, terminated w.e.f. 31.07.2015, by Legal Notice dated 22.06.2015; however, the Defendant neither vacated the suit premises nor paid the arrears of rent.

5. It is further stated the Defendant had earlier entered into an *Agreement to Sell with the Plaintiff*, but he failed to pay the balance amount within the agreed period i.e. on or before 15.05.2015, as alleged in the plaint.

6. The Plaintiff/Respondent thus, *instituted the Suit for Possession, arrears of rent and mesne profits*.



7. The **Appellant/Defendant, in his Written Statement**, while not disputing the initial tenancy, set up a defence that he had entered into an ***Agreement to Sell dated 07.08.2014***, to purchase the suit property from the Plaintiff, for the total sale consideration of **Rs. 12,00,000/-**, out of which the Appellant/Defendant had paid **Rs. 5,00,000** towards advance/earnest money. The sale deed and other relevant documents, were to be executed by the Plaintiff/Respondent upon receipt of the balance sale consideration of Rs. 7,00,000/-.

8. The Appellant contended that pursuant to the Agreement to Sell, he further paid a sum of Rs. 6,00,000/- on 08.09.2014, through one Ms. Bhani. He thus, asserted that he paid a total amount of Rs. 11,00,000/- out of the agreed Rs. 12,00,000/-.

9. The Appellant/Defendant claimed that he remained present at the office of the Sub-Registrar, on the cut-off date i.e. 15.09.2014 with the balance amount, but the Respondent failed to turn up, to execute the Sale Deed; instead, *he issued a false and frivolous Notice dated 25.05.2015*. It was contended that the Defendant was not liable to make any further payment.

10. The Appellant/Defendant defended his possession by claiming that his status has evolved from that of a tenant to a prospective buyer in possession, and that he was in possession of the Suit Property in his own right thereof, under the part performance. He claimed that the suit of the Plaintiff/Respondent was devoid of merit.

11. From the pleadings of the parties, the Ld. Civil Judge framed the following Issues:



Issue No. 1: Whether the plaintiff is entitled to recovery of possession? OPP.

Issue No. 2: Whether the plaintiff is entitled to mesne profits? OPP.

Issue No. 3: Whether the plaintiff is entitled to recovery of Rs. 66,000/- with interest? OPP.

Issue No. 4: Whether the suit has not been properly valued? OPD.

Issue No. 5: Whether the plaintiff has no cause of action? OPD.

Issue No. 6: Whether the plaintiff has not approached the Court with clean hands? OPD.

Issue No. 7: Relief.

12. The **Plaintiff/Respondent**, in support of his case, examined himself as **PW-1**, and deposed about his case and proved the title documents, legal Notices and postal receipts as Ex. PW1/1 to Ex. PW1/6.

13. The Appellant/Defendant however, *failed to lead defence evidence despite being granted multiple opportunities*. Consequently, the Appellant's right to lead Defense Evidence was closed by the Ld. Civil Judge, *vide* Order dated 07.04.2022.

14. The Ld. Civil Judge on the basis of the un-rebutted evidence of the Plaintiff, and failure of the Defendant to prove his defence, held that the plea of part performance under the Agreement to Sell was not established, and decreed the Suit *vide* Judgment dated 13.02.2025 and Decree dated 18.03.2025.

15. Aggrieved by the Decree, the Appellant preferred a **Regular Civil Appeal No. DJ No. 118/2025** along with the *Application under Section 5 of the Limitation Act for condonation of Delay in filing the Appeal*, before the Ld. District Judge, on 30.07.2025.



16. The Appellant stated in the condonation Application that the certified copy of the **Judgment** had been applied for by the Appellant on 17.02.2025 which was received on 27.02.2025. The **Decree Sheet** had not been prepared in time, which was subsequently drawn on 18.03.2025. The certified copy of the **Decree** was subsequently applied for on 17.05.2025, and was thereafter, received on 27.05.2025. Therefore, the Appeal could not be filed within the prescribed period of limitation. The delay in filing the Appeal, occurred on account of non-availability of the Decree.

17. The Appellant had further averred that *the Appeal was filed on 13.06.2025*, but remained under objections, which got finally cleared and the Appeal was lastly filed on 30.07.2025. The Appellant has however, not disclosed the exact period of delay in the Application seeking condonation of delay.

18. The Respondent/Plaintiff in his Reply to the aforesaid Application under Section 5 of the Limitation Act, asserted that the Appellant is a habitual defaulter who has been enjoying the Suit Property without payment of rent, and that until the Appellant clears the up-to-date arrears of rent, he ought not to be heard on the Application.

19. It was further submitted that no “*sufficient cause*” has been shown in the Application in terms of the Order XLI Rule 1 CPC (as amended on 01.07.2022). Moreover, the Appeal can be filed against the Judgment itself and there was no requirement of the Decree sheet.

20. It was further pointed out that the date on which the Appellant had received the Decree sheet, has been left blank in the Application. No cogent reason has been furnished for condonation of delay. The Application is



vague, as it does not disclose the date on which the certified copies of the judgment and decree were applied for nor the date of their receipt. The date on which the Appeal was drafted and filed, has also not been specified.

21. Pertinently, the period of delay has also not been mentioned in the Application. It was thus, submitted that the Application, being vague and frivolous and a waste of judicial time, deserves to be dismissed.

22. The *Appellate Court/ Ld. District Judge*, noted material inconsistencies in the explanation given by the Appellant. The record, including the endorsement of the copying agency, revealed that the Application for certified copies of the Judgment as well as the Decree, was in fact made only on 17.05.2025 i.e., well beyond the prescribed period of limitation of 30 days. The certified copy was then prepared on 23.05.2025, contrary to the stand taken by the Appellant. The explanation furnished for such delay, was neither consistent nor satisfactory.

23. The Ld. District Judge held that the period of limitation of 30 days would commence from the date of the Decree, i.e., 18.03.2025, and not from the date of Receipt of the certified copy.

24. It was further stated that even if the period from 17.05.2025 to 27.05.2025, spent in obtaining certified copies, was excluded, the Appeal would still remain barred by limitation. ***Thus, as computed by the Court, there was a delay of approximately 132 days from the date of Decree and 167 days from the date of judgment.***

25. Ld. District Judge further observed that though the Appellant had asserted that the Appeal was filed on 13.06.2025, but remained under



objections; however, no material was placed on record to substantiate the nature of objections or the steps taken for their timely removal.

26. Upon consideration of the material on record, the Appellate Court/District Judge concluded that no “*sufficient cause*” had been made out by the Appellant for condonation of delay, under Section 5 of the Limitation Act. Accordingly, the Application for condonation of delay was dismissed, and *the Appeal was also dismissed, as being barred by limitation.*

27. *The Appellant has assailed the Impugned Order* by way of the present *Regular Second Appeal*, on the grounds that *he is an illiterate person and was entirely dependent on his previous counsel.* He alleged that his counsel failed to inform him about the passing of the judgment/decree and did not take necessary steps to file the Appeal in time. He claimed to have acquired knowledge of the Decree, only when the bailiff visited the property for Execution.

28. It was stated that the Courts must adopt a justice-oriented approach. The technical considerations of limitation, should not trump substantive justice, especially when the Appellant claimed to have paid Rs. 11,00,000/- towards the purchase of the property.

29. The Appellant further submitted that the First Appellate Court acted perversely in strictly calculating the days of delay, without appreciating the *bona fide* circumstances of an illiterate litigant, who was wholly dependent upon his previous counsel.

30. The Appellant has also submitted that the two Courts failed to consider his defence based on the Agreement to Sell dated 07.08.2014 and



the alleged payment of ₹11,00,000/-, and that he was deprived of a fair opportunity to lead evidence, due to the negligence of his counsel. It is contended that the findings in the two Judgements, being based solely on the uncorroborated testimony of PW-1, suffer from material irregularity and are liable to be set aside.

31. *Per contra, the Ld. Counsel for the Respondent* submitted that the Law of Limitation, is founded on Public Policy. The delay in this case is of over 130 days beyond the limitation period, is significant and unexplained.

32. The Respondent stated that the Appellant applied for certified copies of the Trial Court judgment only on 17.05.2025, which was already months after the decree. This demonstrates a lack of diligence on the part of the Appellant personally, which cannot be shifted solely to the counsel.

33. A valuable right has accrued in favour of the Respondent-Decree Holder due to the lapse of time, which should not be disturbed lightly on vague allegations against a previous counsel.

Submissions heard and record perused.

34. The primary issue before this Court is whether the First Appellate Court committed a patent illegality or an error of law, in refusing to condone the delay.

35. *Order XLI Rule 3A CPC* read with Section 5 of the Limitation Act, 1963, provides for filing an Application for condonation of delay in preferring an Appeal. It stipulates that where an Appeal is presented beyond the prescribed period of limitation, it must be accompanied by an Application supported by an affidavit, setting forth the facts on which the



Appellant relies to satisfy the Court, that he had sufficient cause for not preferring the appeal within such period.

36. Therefore, the primary consideration is whether any “*sufficient cause*” has been disclosed for the delay in filing the Appeal. It is well settled that procedural rules are handmaid to justice, and a hyper-technical or pedantic approach in interpreting such provisions, should not result in failure of justice.

37. At the same time, the underlying purpose of the Limitation Act, 1963 is to prevent stale claims from being agitated and thereby, unsettling rights which may have accrued in favour of a party, cannot be ignored.

38. The law of limitation thus, seeks to strike a balance; *on one hand*, it preserves the equitable right of the defendant to agitate his defence before the Court in order to secure justice; *and on the other*, it safeguards the right that accrues to the decree-holder upon expiry of the prescribed limitation period, which ought not to be lightly disturbed.

39. This principle has been underscored by the Hon’ble Supreme Court in *Ram Lal, Motilal and Chhotelal v. Rewa Coalfields Ltd*, AIR 1962 SC 361, wherein the Apex Court held that once the period of limitation expires, a right accrues to the decree-holder and that right should not be light-heartedly disturbed.

40. In the present case, the Appellant in his Application for Condonation of Delay, as rightly pointed out by the Respondent, has not disclosed the number of days of delay in moving the Application.

41. The Appellate Court recorded that the Appellant had asserted that he applied for a certified copy of the Judgment on 17.02.2025 and received it



on 27.02.2025. It was further his case that the decree sheet in the Suit, was subsequently prepared on 18.03.2025, and that he thereafter, applied for a certified copy of the decree on 17.05.2025, which was received on 27.05.2025.

42. However, as rightly observed by the Appellate Court, the record reveals that the certified copies of both, the Judgment as well as the Decree, were applied for only on 17.05.2025. No Application was filed on 17.02.2025, contrary to the Appellant's claim.

43. The first aspect that emerges, therefore, is that while the Appellant seeks the Court's discretion in his favour, he has failed to disclose true and correct facts. His claim of having applied for the judgment in February, is belied by the record, which shows that the Application was made only on 17.05.2025.

44. Pertinently, by the date on which the Application for certified copy was made, the limitation period of 30 days for filing the Appeal had already expired. The Application for certified copies itself, was filed beyond the prescribed period of limitation, and no explanation for such delay has been disclosed therein.

45. The Explanation offered is confined to non-preparation of the Decree and lack of knowledge thereof. Though a plea of negligence of counsel has been faintly raised in the grounds, the same is neither pleaded in the Application nor substantiated by any material.

46. The Supreme Court in the case of Salil Dutta vs. T.M. and M.C. Private Limited (1993) 2 SCC 185, held that the rule that a party should not suffer for the counsels' misdemeanor, is not absolute. If the party acts with



utter negligence and fails to follow up the case, they cannot hide behind the Advocate's inaction.

47. In the present case, the Appellant has failed to show that he diligently pursued the matter with his advocate or that the delay occurred solely due to the advocate's conduct.

48. It was further contended on behalf of the Appellant that *there was violation of the principles of natural justice*, as he was not given sufficient opportunity during the trial proceedings. However, the record reflects that multiple opportunities were granted to the Appellant to lead evidence despite which no evidence was led before the learned Trial Court, before closure of his evidence in 2022. The closure of the Appellant's evidence was a consequence of repeated defaults and not a denial of opportunity. The plea of violation of natural justice is, therefore, without basis.

49. This indicates that the delay in filing the Appeal was not an isolated instance, but part of a continued lack of diligence on the part of the Appellant, and *no sufficient cause for condonation of delay, is made out*.

50. The contention that the delay ought to have been condoned in the interest of substantial justice, also cannot be accepted in the absence of sufficient cause. The Appellant asserts that he had entered into Agreement to Sell and paid Rs.11,00,000 out of the total sale consideration of Rs.12,00,000. However, this gave an independent right to the Appellant to seek Specific Performance, but it did not alter his status of a tenant, till the Sale Deed got executed. His independent right was not circumscribed by the Suit filed by the Respondent.



51. Therefore, he cannot agitate his substantive rights were defeated. While a liberal approach is warranted, it cannot extend to condoning gross and unexplained negligence. *Equity acts in aid of the vigilant, not the indolent.*

52. The observations of the learned Appellate Court are based on objective assessment of the record and cannot be said to be arbitrary or unreasonable, in exercising its discretion of Condonation of Delay. The Application for condonation of delay in filing the first Appeal, has been rightly rejected by the learned District Judge.

Conclusion:

53. There is no merit in the present Appeal in challenging the Order denying the condonation of delay and, therefore, no ground for interference in the Order of the learned Appellate Court is made out.

54. In view of the foregoing analysis, it is held that the Ld. First Appellate Court has rightly exercised its discretion in dismissing the Application for condonation of delay, as the Appellant failed to demonstrate 'sufficient cause' for the delay of over four months. *The impugned Order dated 17.10.2025 of ld. District Judge, is upheld.*

55. No substantial question of law arises for consideration in this Appeal.

56. Accordingly, the Second Appeal is hereby, **dismissed**.

57. Pending Applications, if any, accordingly, stand disposed of.

**(NEENA BANSAL KRISHNA)
JUDGE**

APRIL 6, 2026/Rs