



2026:DHC:2986



* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Reserved on: 29th January, 2026

Pronounced on: 10th April, 2026

+ **RSA 22/2026, CM APPL. 6181/2026**

SH. AJIT SINGH (DECEASED)

Through his LRs

- A. **SH. GAJINDER SINGH**
S/o Late Sh. Ajit Singh
- B. **SH. RAVINDER SINGH**
S/o Late Sh. Ajit Singh
- C. **SH. SURINDER SINGH**
S/o Late Sh. Ajit Singh
- D. **SMT. SUSHILA DEVI**
W/o Late Sh. Narinder Singh
- E. **SH. NARESH KUMAR**
S/o Late Sh. Narinder Singh
- F. **SMT. USHA MEHLAWAT**
W/o Sh. Sandeep Mehlawat
D/o Late Sh. Narinder Singh
- G. **SMT. POOJA DALAL**
W/o Sh. Sanjeev Dalal
D/o Late Sh. Narinder Singh
- H. **SMT. REKHA SEHRAWAT**
W/o Sh. Sanjay Sehrawat
D/o Late Sh. Narinder Singh
- I. **SMT. RANI**
W/o Sh. Shyam



All R/o House No.F-189,
Village & Post Office Lado Sarai,
Delhi-110030.

....Appellant

Through: Mr. V.P. Rana and Mr. Aviral Jain,
Advocates.

VERSUS

1. **DELHI DEVELOPMENT AUTHORITY**

Through Its vice Chairman
Vikas Sadan, New Delhi-110023.

2. **UNION OF INDIA**

Through Secretary
Ministry of Works & Urban Development
Govt. of India, New Delhi-110011.

....Respondents

Through: Mr. R. K. Dhawan(Standing Counsel
for DDA), Ms. Nisha Dhawan, Mr.
Pawan Karan Deo, Mr. V. K. Teng,
Mr. K. R. Madhar for Respondent
No. 1, DDA. Mr. Sai Manik Sud
(SPC) along with Ms. Kanchan
Semwal (GP) for Respondent No.2.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Regular Second Appeal under Section 100 read with Order XLII Rule 1 and Order XLI Rule 1 of the Code of Civil Procedure, 1908 (*hereinafter referred to as 'CPC'*) has been filed by the Appellants, the LRs of Sh. Ajit Singh (deceased) against the impugned Judgment and Decree dated 11.12.2025 in RCA SCJ No. 03/2023, *vide* which



Ld. ASCJ dismissed the Application under Order XLI Rule 3A CPC read with Section 5 Limitation Act, 1963, filed by the Appellants, seeking *Condonation of Delay in filing the Appeal under Section 96 CPC against the Judgment and Decree dated 28.10.2021*, of the learned Civil Judge, Delhi dismissing the Suit for Permanent Injunction of the plaintiff/Appellant, and consequently dismissed the first Appeal.

2. The Appellant/Plaintiff had *filed CS SCJ No.7081/2016*, against the respondents, for Permanent Injunction.
3. ***The Brief facts are*** that the Plaintiff/Appellant was the owner and in exclusive possession of House No.F-189, Village Lado Sarai, Delhi constructed on a Plot of land admeasuring 252 sq. yards (*hereinafter referred as 'Suit Property'*). The house was constructed partly on Khasra No.269 admeasuring 10 biswa and partly on the adjoining Makbara / Hajira on the Northern side. The property was assessed to property tax and water and electricity connection was also provided therein.
4. The land admeasuring 3 bighas and 2 biswas was ancestral land and by way of family arrangement amongst the co-owners, the house was constructed more than 2 decades ago, on the land admeasuring 10 biswas out of Khasra No.269. The remaining portion of the house of the Plaintiff which is between Khasra No.269 and Makbara, is a courtyard which is enclosed by a boundary wall. The remaining portion of Khasra No.269 admeasuring 2 bighas 12 biswas has been acquired by the Govt. *vide* Award No.36/80-81 and possession was taken in 1980. The area of Khasra No. 269, which was in possession



of the Plaintiff, was left out from the acquisition as it was built-up at that time.

5. At the instance of certain co-sharers of the Plaintiff, officials of Defendant No.1 started harassing the Plaintiff for the last some time claiming that the property belonged to them. *Hence, the suit was filed for Permanent Injunction for restraining the Defendants from forcibly dispossessing the Plaintiff or demolishing the structure existing thereon.*
6. **Defendant No.1/DDA in its Written Statement filed on 03.01.1991** controverted all the averments made in the Plaint. It stated that land forming part of Khasra No.269 of village Lado Sarai, admeasuring 3 bighas 2 biswas and area of 2 bighas 17 biswas, has already been acquired *vide* the Award. The possession of the remaining area admeasuring 5 biswa, was not acquired as there was a Makbara/Hazira on the area measuring 2 bighas and there was construction over the area of 3 biswas. The possession of an area admeasuring 2 bighas and 12 biswas has already been taken, out of the acquired land and the same has been placed at the disposal of DDA, through Notification dated 29.07.1980.
7. **It was stated that** the House No.F-189 was found to be part of the land which had been left out from the acquisition. Since the Notification dated 29.07.1980 under Section 22(1) of the Delhi Development Act, 1957, had not been challenged by the Plaintiff, the logical corollary is that the due process for acquiring the land as mentioned in the Notification, was followed by DDA; as such DDA was within its right to take possession of the vacant land and in its



discretion leave built up area, to be regained in due course of time, after following due process.

8. The DDA claimed that no Notice under Section 53B of the Delhi Development Act, 1957, was served upon the Defendant.
9. The DDA also stated that the land adjacent to Khasra No.269 is Khasra No.268 and the same also stands acquired and is under the control and management of DDA, where the Plaintiff had tried to encroach by putting a boundary wall unauthorizedly, which has been removed. It has been further asserted that the boundary wall over the area measuring 6 biswas forming part of Khasra No.268 village, Lado Sarai, formed part of Khasra No.268 and it is unauthorized and the same is liable to be removed.
10. The learned Civil Judge appointed a Local Commissioner, who visited the Suit premises on 09.10.1990 and submitted a Report about constructed portion with area and photographs, as shown in the Site Plan submitted by the Plaintiff.
11. The Local Commissioner in his Report has not reported about the area of the Suit premises.
12. **The issues were framed on pleadings on 11.09.2002 as under:**
 - (i) *Whether Plaintiff is owner in possession of land partly in Khasra No.269 measuring 10 biswa and partly upon land adjoining the Makbara/Hazira on its Northern side situated in Village Lado Sarai, Delhi? If so, its effect.*
OPP
 - (ii) *Whether Plaintiff is entitled for the relief of injunction, as prayed for?*
OPP
 - (iii) *Relief.*



13. The Plaintiff in support of his case examined himself as PW1 and tendered his Affidavit of Evidence Ex.PW1/X and proved the documents in support of his case.
14. PW2 (sic) M.L. Meena Patwari produced the record pertaining to Khasra Girdawari and Jamabandi for the year 2012-13, which were exhibited as Ex.PW2/1 to Ex.PW2/8.
15. *PW2 Naresh Kumar and PW3 Jai Kishan* corroborated the testimony of the Plaintiff/Appellant.
16. The Defendant/Respondent examined **DW1 Om Prakash Patwari** who produced the original Aks Shijra of Village Lado Sarai of Khasra No.268 and 269 Ex.DW1/1.
17. *DW2 Om Prakash Patwari*, LDC from Land Acquisition Branch, LAC Office, Saket, New Delhi who produced the copy of the Award No.36/80-81 Ex.DW2/1.
18. *DW3 Jagpal Singh, Patwari* produced the record pertaining to Award, extract of Notification dated 29.07.1980 and other Government records.
19. *DW4 T. Lakra Kanoongo*, Land & Building I.P Estate, Vikas Bhawan, Delhi also produced the records pertaining to the Award and the original Possession proceedings of Award No.36 Ex.DW4/A.
20. The learned Civil Judge considered the evidence of the witnesses examined by the parties and concluded that from the documents namely, the *Record, Aks Shijra and the Notification and the Award* it emerged that the Plaintiff/Appellant had no right, title in the Suit property. Furthermore, from the evidence of the witnesses as well as the Report of the Local Commissioner, *it was established that the*



Plaintiff was not the owner of the Suit property and also could not establish his Possession. Therefore, the Suit of the Plaintiff was dismissed by learned ACJ/CCJ/ ARC vide Judgment dated 28.10.2021.

21. The **Regular First Appeal RCA/SCJ/3/2023** was preferred before the Court of learned Senior Civil Judge cum Rent Controller along with an Application under Order 41 Rule 3A CPC, read with Section 5 Limitation Act for **condonation of Delay of 437 days in filing the Appeal.**
22. The **learned Appellate Court** considered the explanations given by the Plaintiff/Appellant and concluded that the Appellant was unable to demonstrate “*sufficient cause*” or that the reasons given were *bona fide*. He considered the exclusion of limitation period on account of COVID Pandemic, but observed that the Appellant seriously failed to give any sufficient cause and that in fact the grounds taken in the Application stood completely unsubstantiated and *malafide* in regard to the delay of almost six months, in getting the judgment of the learned Trial Court.
23. The learned Senior Civil Judge also found that none of the medical documents which had been annexed, demonstrated that he was ever advised rest or was ever hospitalized, or that his medical condition was such that he was not in a position to contact his counsel. Even otherwise, the last Medical Report was of 22.12.2022, while the Appeal before the learned Senior Civil Judge had been filed even beyond 30 days, thereafter. The learned Senior Civil Judge further noted that the Appeal had been filed by several LRs of the original



Plaintiff, and there was no explanation provided as to why none of the other LRs filed the Appeal within the prescribed time, when they were suffering from no impediment.

24. **Hence, the Condonation Application was dismissed and consequently, the Appeal was also dismissed.**
25. Aggrieved by the Dismissal of the Appeal by learned Appellate Court, the **present Regular Second Appeal** has been filed on behalf of the Appellants/Plaintiffs.
26. **The grounds of challenge** are that the reasonable and plausible explanations had been given, which were not considered by the First Appellate Court, which also failed to exercise its discretionary powers in dealing with the Application seeking condonation of delay.
27. It is established law that when substantial rights are pitted against procedural law like limitation; the substantial law should prevail over the procedural law, unless some special prejudice is caused to the opposite side. In the present case, the Appellants assert that they have a meritorious case, and therefore, some concession ought to have been given.
28. The Appellant had *explained that on account of the illness* of one of the Appellants which was supported by medical documents, has been erroneously rejected by the learned Appellate Court by observing that the said prescriptions neither advised complete bed rest nor suggested that the Appellant was admitted in the Hospital. In fact, the kind of disease from which the Appellant was suffering was respiratory which decreases the working capacity of a person and sometimes restrict his movement in the outfield.



29. It has not been considered that when there are more than one or several litigants, the litigants appoint one as the main Parokar or one of them leads the others. Shri Surender was the main Parokar who used to brief the Counsel and when he fell ill, the delay occurred.
30. It has also not been appreciated that litigants are villagers and few of them are semi-literate or illiterate. They were not aware of the consequences of delay in preferring the Appeal. This factor should have been considered by the Appellate Court, but it has not been considered.
31. It has further not been considered that a litigant depends upon the advice of the Counsel and sometimes the gravity and the consequences of delay in filing the Appeal are not explained, resulting in the litigant not being completely aware of the consequences of delay in filing the Appeal though. However, previous counsel is not to be blamed, but the perusal of the Application seeking condonation of delay, shows that there was much more to be explained in the Application which were available with the learned Counsel, but were not mentioned in the Application.
32. The *learned First Appellate Court* had observed that the Application had not been signed by Sh. Surender, who was stated to be ill. In this regard, it is submitted that Appeal had been signed by all Appellants and thus, even if it was not signed by one person who was ill, it would not erase out the case of the Appellants.
33. It was next contended that the copy of the impugned Judgment dated 28.10.2021 became available only in April, 2022. The learned Appellate Court concluded that there was nothing placed on record to



substantiate this aspect and was not considered in favour of the Appellant.

34. In this regard, it is submitted that there was Covid period when the system of uploading the Judgment was not working properly and the lawyers and litigants were also not in touch regularly with the Courts. The Application was duly supported with the Affidavit. The Appellants could not bring additional evidence to substantiate this aspect, as it was completely within the domain of I.T. Branch of the Court and the Affidavit of the Appellant was sufficient on this aspect. Access of litigants and lawyers to the Court system, was limited in those days and therefore, Section 114 Evidence Act, could not have been applicable.
35. Reliance is placed on Inder Singh v. State of Madhya Pradesh 2025, LiveLaw (SC) 339 where it was held that liberal approach must be adopted in condoning the delay when the merits of the case need examination and when limitation is about to obstruct substantial justice.
36. In the present case, the Appellants have been residing in the Suit property since more than 50 years through their predecessors, who had raised the construction on the Suit property. The possession is admitted and the only aspect which needs adjudication is whether the Suit property is part of the acquisition proceedings or not. Taking the technical question of limitation would prejudice the right of the Appellant especially considering their long settled possession.



37. Hence, a prayer was made that the impugned Judgment and Decree dated 11.12.2025 of learned Senior Civil Judge who has rejected the Appeal solely on the ground of limitation, be set aside.

Submissions heard and record perused.

38. The Appellant in his Application for condonation of Delay had stated that there was sufficient cause for the Appellants to entitle them to condonation of delay.
39. The **first aspect**, which emerges is that there was six month's delay in getting the copy of the impugned Judgment dated 28.10.2021. It was asserted that the status of the matter was updated on the E-courts portal in April 2022, following which the Appellants had applied for a certified copy of the judgment. This certified copy was provided to the Appellants in the month of August, 2022.
40. The learned Senior Civil Judge in considering this issue has held that in view of Section 114 Indian Evidence Act 1872, (*now Section 119 of the Bharatiya Sakshya Adhiniyam, 2023*), Illustration (e) sets out the presumption that all judicial acts have been regularly performed. Even otherwise, the Appellants have failed to substantiate this by any Applications for certified copy. The learned Senior Civil Judge has correctly held that the Appellants have failed to substantiate this claim as no Application for certified copy of the judgment has been filed.
41. The **second ground** seeking condonation of delay is the exclusion of the limitation period for filing during the Covid pandemic as extended by the Hon'ble Supreme Court of India in *In Re: Cognizance for Extension of Limitation, In re, (2020) 19 SCC 10 : 2020 SCC OnLine SC 343*. As per this decision, a limitation period of 90 days from



01.03.2022 was available to the Appellants for filing the appeal.

42. The learned Senior Civil Judge has found that the Appellants had applied for the certified copy of the judgment on 04.04.2022, i.e., within the prescribed period, however, a copy was only received on 03.08.2022. Thus, the said period ought to be excluded.
43. This court finds no infirmity in this finding. However, the explanation given that the Judgment did not get uploaded in time, was not substantiated and was thus, rightly rejected by the Ld. SCJ.
44. The **third ground** taken was the medical condition of Shri Surender Singh who was extremely sick in the month of June 2022 with respiratory and cardiac illness and was forced to undergo prolonged treatment. However, his one medical prescription of June, 2022 related to respiratory issue and second dated 25.11.2022 is for fever and cough. None of these documents reflected his medical condition of a kind that totally incapacitated him.
45. In the present case, there was not one Appellant, but were eight legal heirs of Ajit Singh in addition to Surender Singh who were required to file the Appeal. The medical condition that too, which is not shown to be absolutely incapacitating from medical records, could not have been a reason for other Appellants to pursue the matter. While one of the parties may have been taken leave, there was nothing which prevented the other Appellants from pursuing the matter and in getting the Appeal filed in time.
46. The explanation that he was the Parokar or leading the litigation, cannot be accepted for in a condition when Shri Surender Singh was unable to pursue the matter, there was nothing which prevented all



other Appellants from taking charge to agitate their rights.

47. Moreover, the Application for Condonation of Delay was not even signed by Shri Surender Singh whose medical condition was projected and was signed by the other Appellants. The Affidavit filed along with the Application for condonation of Delay was also not supported with the Affidavit of Surender Singh. Furthermore, absence of his signatures establish that he was not the one who pursued the case or got the Appeal filed.
48. Evidently, the affidavit accompanying the Application for condonation of delay has been signed by Shri Gajinder Singh, while the affidavit accompanying the appeal has been signed by one Ms. Rani. Neither of these has been signed by Sh. Surinder Singh and thus, the Appellants have failed to prove that Sh. Surinder Singh was the Parokhar, or the lead litigant, as has been claimed in the present appeal, or even substantiated their claim on the basis of his medical records.
49. It was rightly held that the condonation cannot be a matter of routine; rather must be based upon some reasoning. It is intended to cater to genuine cases and must not be extended to a person oblivious to his rights and entitlements.
50. The Apex Court in the case of Basawaraj vs. Land Acquisition Officer (2013) 14 SCC 81 and Ramlal vs. Rewa Coalfields Ltd. 1961 SCC OnLine SC 39 had concluded that it is well settled that sufficient cause “*must be inferred liberally as to ensure that substantive justice is done but only to the extent where inaction, negligence or lack of bona fide cannot be imputed to the party seeking condonation of*



delay”.

51. Yet, on the other hand in H. Guruswamy & Ors. Vs. Krishnaiah (since deceased) through LRs (2025 SCC OnLine SC 54), Order dated 08.01.2025 of Supreme Court of India in Civil Appeal No.317 of 2025 observed that *the concepts such as liberal approach, justice oriented approach substantial justice should not be employed to frustrate or jettison the substantial law of limitation, yet the length of delay is definitely a relevant factor which must be taken into consideration while considering whether the delay should be condoned or not.*
52. Moreover, while considering the reasons for condonation of delay the Court must not start with the merits of the main matter. The Court owes a duty to first ascertain the bona fide of the explanation offered by the parties seeking condonation. It is only if the sufficient cause aside by the litigant and the opposition of the other side is equally balanced that the Court may bring into it the merits of the matter for the purpose of condonation of delay.
53. The **learned Appellate Court** has rightly considered all the grounds agitated in the Application and has rightly exercised the discretion of dismissing the Condonation Application. The impugned Order is well reasoned and there is no arbitrariness or capriciousness evident in the discretion exercised by the learned Appellate Court in not accepting the reasons given for condonation of delay, which has been rightly rejected.
54. It may also be observed that there is *no Substantial question of Law which has been raised in the present Appeal*. The challenge is only to



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the facts, which is beyond the scope of a Second Regular Appeal.

55. There is no merit in the present Appeal, which is hereby **dismissed**.
The pending Applications if any stands disposed of, accordingly.

(NEENA BANSAL KRISHNA)
JUDGE

APRIL 10, 2026
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