



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

% ***Date of decision: 17th September, 2026***

CNR No. :DLHC010508752024

+ **RSA 148/2024, CM APPL. 46917/2024**

SURAJ SINGH CHAUHAN
S/o Shri Kastoori Singh Chauhan
R/o E-540, Amar Colony,
East Gokulpur, Delhi

.....Appellant

Through: Mr. R.K. Saini, Advocate

RUKSANA
W/o Nizamuddin
R/o C-15/8, Gali No. 8,
Kabir Nagar, Delhi

.....Respondents

Through: Mr. Tanvir Khan, Advocate

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J. (ORAL)

1. Regular Second Appeal under Section 100 of the Code of Civil Procedure, 1908 (hereinafter referred to as 'CPC') has been preferred by the Appellant/Plaintiff, Suraj Singh Chauhan *against the impugned judgement dated 27.02.2024 passed by the learned ADJ-01, Delhi, in RCA DJ 65/2018 vide which Ld. ADJ dismissed the Application under Section 5 Limitation Act read with Section 151 CPC seeking Condonation of delay in filing the Appeal under Section 96 CPC against the judgement and decree dated*



03.04.2017 of the learned Civil Judge, Delhi dismissing the Suit for Permanent Injunction of the Appellant/Plaintiff, and **consequently dismissed the first Appeal.**

2. The Appellant/Plaintiff had filed **CS No.4532/2015** for possession of the property bearing No. C-15/8, out of Khasra No. 58, measuring 67 sq. yds., at Kabir Nagar, Delhi (*hereinafter "the suit property"*), along with arrears of rent, mesne profits/damages and permanent injunction, against the Respondent/Defendant.

3. **Brief facts as stated in the Plaint are** that the Appellant/Plaintiff had purchased the suit property on 08.07.2006 from Shri Mohd. Khalid Saifi, *vide* General Power of Attorney dated 17.07.2006. The Respondent/Defendant was the tenant in the suit property under the erstwhile owner, Shri Mohd. Khalid Saifi.

4. The Responded/Defendant, on their request, were permitted by the Appellant/Plaintiff to continue in occupation as his tenant, *at a monthly rent of Rs. 4,500/-*, being paid by her on the 10th of every month, on the assurance that she would hand over vacant possession on the expiry of one year.

5. The Appellant/Plaintiff claimed that the Respondent paid rent up to 10.02.2007, and thereafter defaulted. The Appellant himself was residing in a rented accommodation and was asked by his own landlord to vacate his rented premises by February, 2010. Thereafter, he approached the Respondent to hand over possession of the suit property, but the Respondent refused to do so, and also declined to clear the arrears of rent since March, 2007. Therefore, the Plaintiff had to shift to another tenanted premises along with his family.



6. Aggrieved, the Appellant served a *legal notice dated 13.01.2010* upon the Respondent terminating the tenancy, to which she sent a reply dated 17.02.2010. Initially, the Appellant, on advice by his erstwhile counsel, instituted an *Eviction Petition under Section 14(1)(a) of the Delhi Rent Control Act, 1958 (hereinafter "DRC Act")*. The same was withdrawn on 14.12.2010, when during cross-examination of the Appellant, it emerged that the actual rent being paid was Rs. 4,500/- per month, which therefore, took the matter outside the pecuniary/jurisdictional ambit of the Rent Controller.

7. Hence, the present Suit was instituted before the Ld. Civil Judge for *possession, arrears of rent, mesne profits. damages and permanent injunction*.

8. The **Respondent/Defendant, in her Written Statement**, took the preliminary objection that the Suit was not filed according to the law, as the *proper court fees* for the relief claimed were not paid. Further, it was asserted that the Suit was filed without any *proper cause of action* and that the court had *no pecuniary jurisdiction* to decide the Suit, as the value of the suit property is more than Rs. 20,00,000/-.

9. It was asserted that there was *any privity of contract between her and the Plaintiff* and therefore, she had no liability to pay any rent/damages to the Plaintiff or give possession of the suit property to the Plaintiff. She further *denied the ownership of the Plaintiff in the suit property* and claimed that the documents filed by the Plaintiff, were forged as they did not contain the property number of the suit property.



10. Further, she asserted that in the Eviction proceedings under Section 14(1)(a) of the DRC Act against her, the Plaintiff had stated the wrong rate of rent and consequently, to avoid her rights based on admission, the Plaintiff withdrew the said Petition.

11. **On merits**, the Defendant refuted the version of the Plaintiff, by reiterating her claim as mentioned in her preliminary objection.

12. **The Plaintiff/Appellant, in his Replication**, denied all the contentions raised therein and reiterated the version set out in the Plaint.

13. The Issues on the pleadings were framed on 03.09.1011as under:

“1. Whether there is a relationship of landlord and tenant between the Plaintiff and Defendant? OPP

2. Whether suit property was let out to defendant by the previous owner and subsequently the plaintiff was allowed to continue to occupy the suit property as tenant @4500/- p.m.? OPP

3. Whether tenancy of defendant has been duly terminated by the plaintiff? OPP

4. Whether plaintiff entitled for decree of possession of the suit property? OPP

5. Whether plaintiff is entitled to recover the arrears of rent as claimed? OPP

6. Whether plaintiff is entitled for damages/mesne profits as claimed? OPP

7. Whether plaintiff is entitled for decree of permanent injunction as claimed? OPP

8. Relief

14. **Appellant/Plaintiff**, in support of his case, examined five witnesses.



15. **PW1, Sh. P.C. Tiwari**, official from the office of the Sub-Registrar, proved the Original Irrevocable General Power of Attorney in favour of the Appellant, which was duly registered in his office as EX. PW-1/A and its certified copy, Mark A, was also taken on record.
16. **PW2, Sh. Subhash Chand Jain**, was the witness to the execution of the said IGPA, which bore his signature at point A, further testifying that Rs. 80,000/- was paid by the Appellant to the owner.
17. **PW3, Virender Kumar**, who brought record pertaining to FIR No. 7/06 as Ex. PW-3/A.
18. **The Plaintiff, in support of his case, examined himself as PW4** and tendered his Affidavit of Evidence as Ex. P-4 and proved documents in support of his case including IGPA, the Site Plan, the legal notice and its corrigendum, the reply thereto, and the record of the earlier, withdrawn DRC Act proceedings, etc.
19. **PW5, Sh. Sunil Vashisht**, General Secretary of the Resident Welfare Association, proved that RWA Kabir Nagar, Shahdara was registered vide Registration Certificate as Ex. PW-5/1 and proved documents in respect of information given to various authorities for allotment of house numbers in that area as Ex. PW-5/2.
20. **The Respondent/Defendant** examined herself as DW-1, reiterating her Written Statement.
21. **The Ld. Civil Judge**, on an appreciation of the evidence, held that the Appellant had *failed to prove the relationship of landlord and tenant* as no rent agreement or rent receipt was produced. Having failed to prove the tenancy, he was held equally unable to establish its valid termination.



22. On the question of title, it was found that the GPA did not mention the property number of the suit property and therefore, this document couldn't be relied on. Further, it was observed that no registered Conveyance Deed had been executed in his favour and the Site Plan that the Plaintiff relied upon, did not record the property's measurements, rendering it incapable of supporting his case.

23. Further, the Legal Notice dated 13.01.2021 had misstated the rent as Rs. 3,200/- instead of Rs. 4,500/-, with no explanation offered for the discrepancy or for the year's delay in withdrawing the earlier DRC Act petition. *Accordingly, it was concluded that the documentary evidence relied upon by the Appellant, did not prove his case.* The Suit of the plaintiff was, thus, dismissed.

24. The **Regular First Appeal RCA DJ 65/2018** was preferred before the court of ADJ, Delhi, along with an **Application under Section 5 of the Limitation Act read with Section 151 CPC for condonation of delay in filing the Appeal.**

25. The learned Appellate Court considered the explanations given by the Appellant and concluded that he failed to demonstrate sufficient cause or that the reasons given were *bonafide*. Further, it was observed that no documents or doctor's prescription were available on the judicial record, in support of the Appellant's assertion regarding his illness.

26. The learned Appellate Court further held that the delay being of about one year from the date of the Trial Court's Judgment dated 03.04.2017 to the filing of the Appeal on 16.04.2018, was "*not minor*" and could not be condoned, in the absence of any sufficient cause.



27. Hence, the Condonation Application was dismissed and, consequently, the Appeal was also dismissed as being barred by limitation.

28. Aggrieved by the dismissal of the Appeal by the learned Appellate Court, the present **Regular Second Appeal** has been filed on behalf of the Appellant/ Plaintiff.

29. **The grounds of challenge are** that the Ld. Appellate Court wrongly held that the Appeal was barred by limitation, without appreciating that the expression "*sufficient cause*" under Section 5 of the Limitation Act, which ought to be given a liberal, justice-oriented construction. It further ignored the reasons furnished by the Appellant in the Application under Section 5 Limitation Act, seeking condonation of delay, and erred in dismissing the Appeal without going into the merits of the case at all.

30. It is contended that the two Ld. Courts, wrongly held that there was no medical documentation on record to support the Appellant's illness, without appreciating that the Appellant, a senior citizen, was suffering from pulmonary Tuberculosis and Hepatitis from 22.04.2017 to 23.03.2018, and was thereafter, rendered vulnerable due to the COVID-19 pandemic, on account of which he could not prefer the First Appeal in time. A Section 5 Application supported by a Medical Certificate had in fact, been filed to this effect.

31. It is submitted that the Ld. Trial Court wrongly held *that the relationship of landlord and tenant was not proved*, despite the clear admissions by the Respondent. It is submitted that once such admissions are



on record, the question of documentary proof of rent or rent receipts, does not separately arise.

32. It is contended that the Ld. Trial Court exceeded its jurisdiction in deciding the issues of ownership and title, despite no such issue having been framed, ignoring the provisions of Section 116 of the Evidence Act.

33. Further, it was wrongly held that there was no registered Conveyance Deed and that the property number was not identifiable, overlooking the registered GPA dated 18.07.2006 in the Appellant's favour and the testimony of PW5 explaining the RWA's private numbering. There was no dispute as regards the identification of the suit property, as admitted by the Respondent also.

34. It is submitted that the Ld. Trial Court failed to appreciate that the tenancy had been validly terminated vide Legal Notice dated 13.01.2010, to which the Respondent gave only a vague Reply, from which an adverse inference ought to have been drawn. The Respondent, despite claiming to be the owner of the suit property, failed to place any document on record to substantiate that claim.

35. It is further contended that the Ld. Trial Court erred in its findings regarding the Appellant's visits to and enquiries about the suit property, and in holding that the nature of the tenancy (month-to-month or otherwise) could not be ascertained, whereas the Appellant had specifically pleaded and deposed that the Respondent had sought one year to vacate at a rent of Rs. 4,500/-, which itself converted the tenancy to a month-to-month basis.



36. Hence, a prayer was made that the impugned Judgment and Decree dated 27.02.2025 of the learned Senior Civil Judge, who has rejected the Appeal solely on the ground of limitation, be set aside.

Submissions heard and record perused.

37. The First Appeal against the dismissal of the Suit of the Plaintiff for possession, had been dismissed on the ground of limitation.

38. The law on this point is well settled. To obtain an extension of time by invoking the provisions of Section 5 of the Act, the party seeking extension must satisfy the Court that he had sufficient cause for not filing the Appeal, within the prescribed period.

39. The principle regarding ‘sufficient cause’ is discussed in the case of State of Madhya Pradesh v. Ramkumar Choudhary, 2024 SCC OnLine SC 3612; the Supreme Court observed that where a party allows the period of limitation to expire and thereafter seeks condonation of delay, the sufficient cause must be traced to an event or circumstance arising **before the expiry of limitation**, which rendered it impossible for the party to institute the proceedings within the prescribed period. The Court further clarified that while events or circumstances arising after the expiry of limitation may explain a further delay, they cannot constitute the cause for the limitation having been allowed to expire.

40. Further, in Ramlal, Motilal and Chhotelal v. Rewa Coalfields Ltd., 1961 SCC OnLine SC 39, the Apex Court held that *proof of “sufficient cause” is a condition precedent for exercise of the discretionary jurisdiction under Section 5 of the Limitation Act. Where sufficient cause is not*



established, the application for condonation of delay is liable to be dismissed on that ground alone. The Court further recognised that considerations of diligence and bona fides may become relevant while exercising discretion after sufficient cause has been shown. Thus, the burden lies upon the party seeking condonation to establish sufficient cause for the delay, and mere invocation of a general plea cannot, by itself, justify enlargement of the prescribed period.

41. Appellant in his Application under S.5 Limitation Act for condonation of Delay, had stated that there was sufficient cause for the Appellant to entitle him to condonation of delay.

42. The *first assertion* that emerges is that the Appellant fell ill on 22.04.2017, shortly after applying for a certified copy of the impugned Judgment, on 20.04.2017. It was averred that he remained continuously ill until 23.03.2018, in support of which two Medical Certificates, both dated 23.03.2018, were placed on record.

43. The **first Certificate** stated that the Appellant was suffering from *Pulmonary Hepatitis* and that a period of absence from duty with effect from 22.04.2017 to 23.03.2018, was necessary for the restoration of health. The **second Certificate** certified that the Appellant was regularly being treated with effect from 22.04.2017 for Pulmonary Tuberculosis and Hepatitis, and he was very weak due to illness and loss of appetite; he was unable to work and was advised to take complete bed rest.

44. The learned First Appellate Court, while considering this issue, has held that there are no documents/doctor's prescriptions available on the judicial record, in support of the assertion of the Appellant with regard to his



illness. Even if the two above-mentioned Certificates are accepted, this finding cannot be faulted, as neither Certificate dated 23.08.2018 records any prescription or treatment administered at any point during the illness period, i.e., 22.04.2017 onwards. Thus, in the absence of any medical material such as prescription, treatment charts, or hospital admission records, the Appellant's explanation is insufficient.

45. The two Medical Certificates, both dated 23.03.2018, do not reflect any contemporaneous treatment during this period. Neither Certificate reflects that the Appellant was ever hospitalized, nor is there any material on record to show that his condition was such as to render him unable to contact his Counsel. **Therefore, the Certificates, at best, establish the Appellant's condition as on the date of their issuance, and do not account for his continued incapacity throughout the period of delay.**

46. Even otherwise, a claim of illness, unaccompanied by contemporaneous medical material establishing continuous treatment or incapacity through the period of delay, falls short of the standard required to constitute sufficient cause under Section 5 of the Limitation Act.

47. Lastly, on similar facts, in MajjiSannemma @ Sanyasirao v. Reddy Sridevi, (2021) 18 SCC 384, the respondent therein had sought condonation of a delay of 1011 days in filing a second Appeal, claiming to have fallen sick and been advised bed rest from 01.01.2017 to 15.03.2017. The High Court had condoned the delay, holding that there was no wilful negligence and that the respondent's attempt was bona fide. The Supreme Court reversed this finding, holding that *it was a case of gross negligence and want of due diligence, since no explanation whatsoever had been furnished for the*



period after 15.03.2017 from the end of the bed rest until the second Appeal was actually filed in 2021.

48. Therefore, in the present case, even if accepted that the Appellant was advised bed rest during the certified period, *no cogent explanation has been furnished for the interval between recovery and the actual filing of the Appeal.*

49. Therefore, the learned Appellate Court has *rightly considered all the grounds agitated in the Application and has rightly exercised its discretion in dismissing the Condonation Application.****The impugned Order is well-reasoned, and there is no arbitrariness or perversity in the exercise of discretion by the learned Appellate Court, in declining to accept the reasons given for condonation of delay.***

50. Therefore, the learned First Appellate Court has rightly dismissed the First Appeal, as barred by Limitation.

Conclusion:

51. The aforesaid discussion reflects that no *substantial question of law* has been raised, in the present Appeal. The challenge is confined to facts, which is beyond the scope of a Regular Second Appeal.

52. **There is no merit in the present Appeal, which is hereby dismissed.** Pending Applications, if any, also stand disposed of.

(NEENA BANSAL KRISHNA)
JUDGE

SEPTEMBER 17, 2026
va/n