



2026:DHC:7911



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

Date of decision: 16.09.2026

CNR No. DLHC010428902024

+ **EX.F.A. 26/2024**

MS BRIJ LAL AND SONS

.....Appellant

Through: **Mr. Tilak Raj Gogia, Partner of
Appellant-Firm in person.**

versus

UNION OF INDIA

.....Respondent

Through: **Mr. Tushar Sannu, Mr. Vaibhav
Tripathi and Ms. Akanksha
Sinha, Advocates for GNCTD.**

CORAM:

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

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JUDGEMENT (Oral)

CM APPL. 62928/2026 (Early Hearing by appellant in person)

1. The present Application under Section 151 of the Code of Civil Procedure, 1908 has been filed by the Applicant, Mr. Tilak Raj Gogia, Partner of the Appellant-Firm, seeking early hearing of the captioned Execution First Appeal.

2. Considering the contents of the Application and the fact that learned counsel appearing on behalf of the Respondent has no objection to the prayer made therein, the Application is allowed and disposed of accordingly.

3. Learned counsel appearing on behalf of the Respondent, as well as the Appellant appearing in person, submit that the matter may be taken up for final hearing today itself.

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4. In view of the aforesaid request, and with the consent of the parties, the captioned Execution First Appeal is taken up for final hearing today itself.

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5. The present Execution First Appeal [**“present Appeal”**] has been filed under Order XXI Rule 58 read with Sections 103, 104 & 151 of the Code of Civil Procedure, 1908 [**“CPC”**] and read with Article 227 of the Constitution of India, 1950, seeking the following reliefs:

- “(a) To set aside the order dated 25.11.2022, passed by the Sh. Akash Jain ADJ-O1, South East, Saket Court, New Delhi.
- (b) To Set aside the order dated 22.03.2022 passed by the Ms. Shelly Arora, Ld. ADJ-O1, South East District, Saket Courts, New Delhi in EX-1418/2014.
- (c) Issue direction to the Judgement Debtor/Respondent to make the payment in terms of prayer (as order the attachment of the bank account of the Judgment Debtor/Respondents with 18% Compound Interest from 26.03.2021 to till payment as per the FAO No. 12 of 2013 demanded by the Decree Holder.
- (d) Any other or further relief(s) which this Hon'ble Court may deem fit and proper is also granted in favour of petitioner and against the respondents to meet the ends of justice.”

6. The present Appeal is accompanied by an Application [**“Condonation of Delay Application”**] dated 30.05.2024 being CM APPL. 41564/2024 filed under Section 151 of the CPC seeking condonation of delay of 501 days in filing the captioned Appeal. It would be appropriate to extract the contents of the Condonation of Delay Application in its entirety. The same reads as follows:

- “1. That the Petitioner is a partnership firm and work in Delhi That Mr. Tilak Raj Gogia is Partner. Hence, he is competent to sign and verify the present execution First appeal and also competent to file affidavits in the support of the present Execution First appeal.
- 2. That delay of get the certified copy of the Judgement

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applied on 22.03.2022 to 11.04.2022 before Ld. District Court, Saket, New Delhi.

3. That due to corona Pandemic applicant/Decree Holder stays Home 12.04.2022 to 28.04.2022. Copy of the Certificate for COVID-19 vaccination is enclosed hereto and marked as **ANNEXURE A-1**.

4. That the applicant/Decree Holder is suffering from Urine problem so applicant visited hospital regularly for treatment 29.04.2022 to 30.05.2022. Copy of the Medical Record is enclosed hereto and marked as **ANNEXURE A-2**.

5. That the Applicant is going to Canada on 14.06.2022 for his treatment.

6. That the application filed Air Ticket to Canada on 14.06.2022 and stay in Canada upto 05.11.2022. Copy of the Boarding Pass is enclosed hereto and marked as **ANNEXURE A-3**.

7. That the applicant is Senior Citizen and after returning from Canada takes rest for a week and adjust with local weather.

8. That the Applicant has filed review petition on 11.11.2022 before Ld. ADJ-01, (South -East) Saket Court, New Delhi was dismissed due to Limitation.

9. That the applicant has filed Execution First Appeal before this Hon'ble Court in the year 2022 has been withdrawn with liberty to file fresh appeal on 26.02.2024.

10. That the present application is being filed bonafide and Interest of Justice.”

7. It is noted that the Application seeking condonation of delay has itself been filed with considerable delay. The Court, therefore, deems it appropriate to first examine the explanation furnished by the Appellant for the delay in filing the present Appeal.

8. Insofar as the challenge to the Order dated 25.11.2022 is concerned, it is noted that the Appellant had earlier preferred EX.F.A. 3/2023 assailing the said Order. The said Appeal came to be disposed of as withdrawn *vide* Order dated 26.02.2024, which reads as under:

“EX.F.A. 3/2023

1. On the attention of Mr. Tilak Raj Gogoi, who appears for the appellant, being drawn to the provisions of Order XLVII Rule 7(1) of the CPC, which would foreclose this appeal, Mr. Gogoi seeks leave to withdraw this appeal with liberty to take appropriate remedies as are available in law.

2. Leave and liberty is granted as prayed for.

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3. The appeal is disposed of as withdrawn.

CM APPL. 64995/2023

4. The application does not survive for consideration and is disposed of.”

9. During the course of hearing of the aforesaid Appeal being EX.F.A. 3/2023, the attention of the Appellant was drawn to the provisions of Order XLVII Rule 7(1) of the CPC, which would foreclose the maintainability of the appeal. The Appellant, thereupon, sought leave to withdraw the aforesaid Appeal with liberty to avail of such appropriate remedies as may be available in law. The said Appeal was accordingly permitted to be withdrawn.

10. The liberty so granted, however, cannot be construed as conferring upon the Appellant a fresh right to re-agitate, by way of the present Appeal, the very same challenge to the Order dated 25.11.2022. The Order dated 26.02.2024 merely permitted the Appellant to withdraw the earlier Appeal, i.e., EX.F.A. 3/2023, with liberty to avail of such remedy as may be available in law. It did not adjudicate upon, or enlarge, any substantive right of appeal against the Order dated 25.11.2022. The present challenge to the said Order is, therefore, not maintainable.

11. This Court now turns to the challenge laid by the Appellant to the order dated 22.03.2022. As noticed hereinabove, the present Appeal has been instituted with a delay of 501 days insofar as the said Order is concerned. The Appellant has, therefore, filed CM APPL. 41564/2024 seeking condonation of the said delay. The grounds set out in the Condonation of Delay Application have already been extracted in their entirety hereinabove.

12. A perusal of the aforesaid grounds indicates that the Appellant

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seeks to account for the delay on the basis of the time taken in obtaining the certified copy of the order, the COVID-19 pandemic, medical treatment between 29.04.2022 and 30.05.2022, the Appellant's travel to Canada from 14.06.2022 to 05.11.2022 for treatment, the period allegedly required for recovery upon his return, and the filing of a review petition on 11.11.2022. The application further refers to an earlier Execution First Appeal having been filed before this Court and having subsequently been withdrawn on 26.02.2024.

13. The aforesaid circumstances, however, do not satisfactorily account for the delay of 501 days in assailing the order dated 22.03.2022. In particular, the filing of the review petition on 11.11.2022, which itself came to be dismissed on the ground of limitation, cannot, in the absence of any further explanation demonstrating due diligence on the part of the Appellant, by itself constitute sufficient cause for the entire period of delay. Likewise, the withdrawal of the earlier Execution First Appeal on 26.02.2024, pursuant to the Order passed therein, cannot efface the delay that had already accrued in challenging the Order dated 22.03.2022. The liberty granted on 26.02.2024 was also in the context of the withdrawal of the earlier Appeal challenging the Order dated 25.11.2022 and cannot be treated as an extension of limitation for assailing the Order dated 22.03.2022.

14. Thus, viewed cumulatively, the explanation furnished by the Appellant does not disclose sufficient cause warranting condonation of the substantial delay in instituting the present Appeal against the Order dated 22.03.2022. Consequently, the challenge to the said Order

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cannot be entertained at this belated stage. In view of the aforesaid conclusion on maintainability and limitation, it is not necessary for this Court to enter into the merits of the substantive grievances sought to be raised by the Appellant in relation to the execution proceedings.

15. In view of the foregoing, this Court finds no ground to interfere with the Orders impugned in the present Execution First Appeal.

16. In view of the foregoing discussion, CM APPL. 41564/2024, seeking condonation of delay, is dismissed. Consequently, the present Execution First Appeal, stands dismissed.

17. Accordingly, the present Petition, along with pending Application(s), if any, stands disposed of in the above terms.

18. The date already fixed, i.e. 26.11.2026, stands cancelled.

HARISH VAIDYANATHAN SHANKAR, J.
SEPTEMBER 16, 2026/tk/ma

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