

IN THE COURT OF SH. PITAMBER DUTT :
ADDL. DISTRICT & SESSIONS JUDGE-CUM-PRESIDING OFFICER,
APPELLATE TRIBUNAL, M.C.D., DELHI.

APPEAL NO. 255/ATMCD/2019

SHANTI LUTHRA & ORS VS NDMC

ORDER ON APPLICATION FOR CONDONATION OF DELAY.

1. Vide this order, I shall decide the application filed by appellants for seeking condonation of delay in filing of the accompanying appeal.

2. It is averred in the application that the order was received by the office boy of appellants, who went to his native village on Holi leave from 21.03.2019 to 06.04.2019 and forgot to inform about / handover the said order to the appellants, thus, they were unable to take appropriate action as per the statutory provisions. On that basis, appellant has sought condonation of delay in filing of the accompanying appeal.

3. The respondent has filed reply, thereby controverted the averments mentioned in the application. It is averred that no sufficient or cogent reason for condonation of delay has been mentioned. All other averments have been denied. It is prayed that appeal may be dismissed.

4. I have heard Ld. counsel for applicants / appellants, Ld. counsel for the non-applicants / respondents and perused the application, reply thereto as well as the record.
5. The appellants have sought condonation of delay in filing the accompanying appeal under Section 5 of the Limitation Act, which is reproduced as under:-

Section 5. Extension of prescribed period in certain cases. —Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908 (5 of 1908), may be admitted after the prescribed period, if the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period. Explanation.— The fact that the appellant or the applicant was misled by any order, practice or judgment of the High Court in ascertaining or computing the prescribed period may be sufficient cause within the meaning of this section.

6. A perusal of the above shows that the delay in filing an appeal can be condoned if sufficient cause, if any, preferring such appeal is shown by appellants.

7. Vide this application, appellants are seeking condonation of delay in filing of the accompanying appeal against impugned demolition order dated 14.03.2019, on the ground that the order of demolition was received by the office boy of appellants, who went for Holi leave to his native village and did not hand over copy of said order to appellants.
8. The accompanying appeal has been filed against the demolition order dated 14.03.2019, which was sent through speed post on 21.03.2019. The appeal should have been filed within 6 days i.e. upto 20.03.2019 but same has been filed on 29.04.2019 i.e. after around 1 month from the date of expiry of the period of limitation.
9. The ground taken in the application is that the demolition order was received by the office boy of appellants, who went to his native village for Holi and came back on 06.04.2019 and informed about the same to appellants.
10. Considering the above facts and circumstances and the reason assigned in the application, the application filed by appellants under Section 5 of the Limitation Act for seeking condonation of delay is

allowed. The delay caused in filing of the accompanying appeal is condoned.

**Announced in the Open Court,
Today i.e. on 09.05.2024**

**(PITAMBER DUTT)
AD&SJ-cum-P.O.
Appellate Tribunal : MCD Delhi**