

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

APPEAL NO. 289/ATMCD/2020

RAVINDER KUMAR SHARMA VS EDMC & ANR

ORDER ON APPLICATION FOR CONDONATION OF DELAY.

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

2. It is averred in the application that appellant came to know about the impugned demolition order dated 24.06.2019 on 23.10.2020, when some official of the respondent visited his property late in the evening, after which he visited the office of the respondent, where copy of demolition order was handed over to him, thereafter, the accompanying appeal was filed immediately. On that ground, this application has been filed for seeking 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 prayed that application may be dismissed.

4. I have heard Ld. counsel for applicant / appellant, Ld. counsel for the non-applicant / respondent and perused the application, reply thereto as well as the record.
5. The appellant has 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 the appellant.

7. Vide this application, the appellant is seeking condonation of delay in filing of the accompanying appeal on the ground that the demolition order was never served upon him and the appellant got copy of the demolition order from the office of the respondent on 23.10.2020 during evening.
8. The respondent though controverted the said plea in their reply, but has not placed on record any cogent proof to show that the demolition order dated 24.06.2019 was served upon the appellant prior in time in accordance with law.
9. The demolition order is stated to have been sent through speed post but no tracking report is available in the record.
10. In view of the above facts and circumstances, I am of the considered view that appellant has assigned sufficient cause for seeking condonation of delay in filing of the accompanying appeal. Accordingly, the application filed by the appellant 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 17.05.2024**

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