

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

APPEAL NO. 357/ATMCD/2024

Shri Rajinder Kumar VS MCD & Ors

ORDER ON APPLICATION UNDER SECTION 5 OF THE
LIMITATION ACT.

1. Vide this order, I shall decide the application filed by the appellant under Section 347B (2) of the DMC Act 1957 seeking condonation of delay in filing of the present appeal.
2. In the present appeal, the appellant has impugned the sanctioned building plan dated 20.12.2021 granted in favour of the respondent No.5. It is submitted by the Ld. counsel for the appellant that he is the owner of one of the shop in the property in question. It is stated that the respondent No.4 & 5 were trying to raise unauthorized construction in the property in question and the appellant applied various RTI applications to know about the status of the sanctioned building plan of the property. Thereafter the appellant filed the writ petition Civil bearing No.2959/2021 before the Hon'ble High Court of Delhi. The said writ petition was disposed off on 13.03.2023. On 21.02.2022 the respondent filed the list of documents containing the sanctioned building plan dated 20.12.2021 which is placed on page No.121-125 of the appeal.
3. It is stated that thereafter the appellant applied vide RTI application dated 02.03.2022 to seek the documents in respect of the said sanctioned building plan and the said RTI application was rejected on 12.06.2023 (page 136 of the appeal).
4. It is stated that thereafter the appellant was trying to obtain the documents filed for obtaining the sanctioned building plan. On

12.05.2024 appellant confronted the R-5 and he threw GPA/site plan/translated copy of Sale Deed on appellant and only after obtaining those documents the appellant filed the present appeal on 17.05.2024.

5. Ld. counsel for the respondent MCD as well as Ld. counsel for Respondents No.4 & 5 opposes the application. It is submitted that as per the admitted case of the appellant he got copy of the sanctioned building plan during the writ proceedings before the Hon'ble High Court of Delhi on 21.02.2022. It is submitted that no reasonable cause has been tendered in respect of the delay thereafter. Throwing of documents on 12.05.2024 by respondent No.5 is also disputed. It is submitted by the Ld. counsel for the respondent No.4 that the sanctioned building plan pertains to other portion of the property which does not include shop of the appellant and he has no *locus standi* to file the present appeal.

6. The Hon'ble Supreme Court of India in case titled **P.K. Ramchandran Vs State of Kerala & Ors**, reported as 1997 (7) SCC 556 has held that:-

“When the statute prescribes a particular time limit to file an appeal, the said time limit cannot be simply extended on equitable grounds when the party concerned is not providing any satisfactory, reasonable or even a proper explanation for not filing the appeal at the appropriate time”.

7. The Hon'ble Supreme Court of India in **Bahiru Govardhaneetc Vs Land Acquisition Officer**, reported as 2013 (10) SCC 765 has held that:-

“The Court has no power to extend the period of limitation on equitable grounds. The statutory provision may cause hardship or inconvenience to a particular party but the Court has no choice but to enforce it giving full effect to the same.”

8. I have heard the arguments and perused the record. It is the settled legal position that the delay in filing of case cannot be condoned on equitable grounds and party seeking condonation of delay needs to tender justifiable reasons and is required to explain delay.

9. It is the admitted position on record that during the course of proceedings in the writ petition bearing No.2959/2021 the respondent No.5 on 21.02.2022 has filed the list of documents containing the sanctioned building plan dated 20.12.2021 (which is filed by the appellant on page No.121-125 of the appeal). The impugned sanctioned building plan is available with the appellant since February 2020 itself. Merely because appellant was seeking some further documents in the RTI cannot be said to be a reasonable ground for extension of limitation period. Obtaining the documents through RTI and seeking extension on such a ground is going to be unending process. The building plans are sanctioned for a period of five years and any reasonable objection in respect of those sanctioned building should be adjudicated on priority within reasonable time failing which the sanctioned building plans are liable to become stale.
10. It is clear from the record that the appellant was having knowledge about the sanctioned building in the year 2022 and has failed to avail the remedy within time. Appeal is filed only on 17.05.2024. No reasonable explanation has been tendered for condonation of delay. Appellant has made an endeavor to create a cause of action from the date on which the documents thrown on him. Such a ground on the face of it looks flimsy, especially when the respondent has denied any such incident. Entertaining such belated appeal will not only lead to miscarriage of justice but also frustrate the time bound building sanctions which has been granted by the MCD in respect of the property after following due process of law.
11. In view of the aforesaid facts and circumstances, I do not find any merits in the application seeking condonation of delay. The same is hereby dismissed. Accordingly, the appeal filed by the appellant is also dismissed.

12. Record of the respondent, if any, be returned along with copy of this order and appeal file be consigned to record room.

**Announced in the Open Court,
Today i.e. on 03.12.2024**

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