



**IN THE COURT OF SH. HEM SINGH, DISTRICT JUDGE -01,
EAST DISTRICT, KARKARDOOMA COURTS, DELHI**

MCA DJ No.27/22
CNR No. DLET010095972022

In the matter of :-

Smt. Sunita Chand
W/o Sh. Dayal Singh
R/o House No. C-184,
Ground Floor, Pandav Nagar,
Delhi-110092

.....Appellant

Versus

Sh. Rajender Prakash Gupta
S/o Lt. Sh. C.P. Gupta
R/o H.No. S-61, Pandav Nagar

.....Respondent

Date of Institution	:	15.09.2022
Order reserved on	:	10.03.2026
Date of Decision	:	18.03.2026

**Appeal under Rule 1 of order XLIII CPC, 1908 against the
impugned Order dated 01.08.2022**

ORDER

1) The present appeal is filed against the order dated 01.08.2022 passed by the Ld. ASCJ-CUM JSCC-CUM Guardian Judge, KKD Courts, East, Delhi, whereby the application of the plaintiff/respondent under Order XXXIX Rule 10 CPC was allowed and defendant/appellant was directed to deposit amount

of Rs. 12,000/- per month in the Court from the date of said order till disposal of the suit.

2) Arguments have been heard on the application filed by the appellant under Section 5 of the Limitation Act, 1963 seeking condonation of delay in filing the present appeal as well as on the instant appeal.

3) It is stated in the application seeking condonation of delay that the appeal could not be filed within the stipulated period due to the time consumed in obtaining the certified copy of the impugned order dated 01.08.2022. As per law, the appeal was required to be filed within a period of thirty days from the date of the impugned order. However, the present appeal has been filed only on 15.09.2022, thereby resulting in a delay of 14 days.

4) The only ground taken by the appellant for condonation of delay is that the delay occurred due to the time taken in obtaining the certified copy of the impugned order.

5) However, perusal of the endorsement on the certified copy reveals that the application for obtaining the certified copy was filed on 24.08.2022 and the same was made ready for delivery on 26.08.2022. Thus, the appellant is entitled to exclusion of only three days, i.e, from 24.08.2022 to 26.08.2022, for the purpose of computation of limitation. The record further reveals that although the certified copy was ready on 26.08.2022, the same was collected by the appellant only on 02.09.2022, for which no explanation whatsoever has been furnished.

6) No other ground has been stated in the application or advanced during the course of arguments explaining the delay in filing the present appeal. Even after excluding the aforesaid three days from the computation of limitation, the appeal still remains barred by limitation.

7) It is a settled principle of law that while considering an application under Section 5 of the Limitation Act, the length of delay is not material; rather, the sufficiency of the explanation offered for the delay is to be examined. Even a short delay cannot be condoned in the absence of a satisfactory explanation.

8) In the present case, the appellant has failed to furnish any plausible explanation for the delay beyond the limited period attributable to obtaining the certified copy. Consequently, no sufficient cause has been shown for condonation of delay in filing appeal.

9) Accordingly, the application under Section 5 of the Limitation Act stands dismissed. As a necessary consequence, the appeal being barred by limitation is also liable to be dismissed. Even otherwise, the present appeal is liable to be dismissed on merits as well. The contention of the appellant is that he ceased to be a tenant of the respondent after entering into the agreement to sell in respect of the suit property and, therefore, the relationship of landlord and tenant no longer subsisted between the parties. I do not agree with the contention of the appellant.

10) In terms of Section 111(d) of the Transfer of Property Act, 1882, a lease is determined by merger only when the interests of the lessor and the lessee in the whole of the

property become vested at the same time in one person in the same right. In other words, merger takes place only when the leasehold interest and the ownership interest unite in the same person.

11) It is a settled principle of law that an agreement to sell does not create or transfer any right, title or interest in immovable property. In this regard, reference may be made to the decision of the Supreme Court of India in Suraj Lamp & Industries Pvt. Ltd. v. State of Haryana, AIR 2012 SC 206 wherein it has been held that ownership in immovable property can be transferred only through a registered conveyance deed and not merely by an agreement to sell.

12) Therefore, the appellant, who admittedly entered the property as a tenant, cannot contend that merely by entering into an agreement to sell he became the owner of the suit property or that the tenancy stood determined by merger. In the absence of transfer of ownership in favour of the appellant, the doctrine of merger is not attracted.

13) Accordingly, the contention raised by the appellant is devoid of merit. Consequently, the appeal is dismissed.

Appeal file be consigned to the record room as per rules.

Trial Court file be sent back to the concerned Court along-with copy of this order.

**Announced in the open Court
on 18.03.2026**

**(HEM SINGH)
District Judge-01
East District, KKD Courts/Delhi**