

**IN THE COURT OF AASHISH GUPTA, DISTRICT JUDGE-01,
NORTH-EAST DISTRICT, KARKARDOOMA COURTS, DELHI**

In the matter of

**RCA DJ No. 54/2026
CNR No. DLNE01-001927-2026**

Sunny
S/o Sh. Nanak Chand,
R/o C-1/80, Bhati Wali Gali,
Nehru Vihar, North-East Delhi,
Delhi-110094 Appellant

versus

Manappuram Finance Ltd.
Through its Branch Manager
At Manappuram House, Valapad,
Thrissur, Kerala-680567 Respondent

**Date of institution : 04.06.2026
Reserved on : 08.06.2026
Date of Decision : 08.06.2026**

JUDGMENT

1. The present appeal impugns the Order dated 23.04.2026 passed in Misc SCJ No. 59/24 arising in CS No. 536/23 (hereinafter referred as the '**impugned order**') whereby the Ld. Trial Court has *inter alia* dismissed the application moved by appellant/plaintiff U/O IX Rule 9 CPC.

2. The said order reads as under:-

"Present: Sh. Nishant Sharma, Ld. Counsel for the applicant.

Sh. Rishabh Kumar, Ld. Counsel for the non-applicant (Through VC).

Matter is listed for arguments on application u/O 9 Rule 9 CPC. Ld. Counsel for applicant submits that due to incorrect noting of date fixed for hearing, the applicant could not appear in the main suit as a consequence of which the same was dismissed. Ld. Counsel further submits that the delay and absence was unintentional and the applicant wishes to genuinely contest the suit.

Per contra, Ld. counsel for defendant submits that the delay and absence of the applicant was deliberate and instant application is an attempt to abuse the process of law. LD counsel further submits that the applicant has only shown absence due to wrong noting of date on last date of hearing only whereas no reason has been given for previous two non appearances. Thus, Ld. Counsel requests the application may be rejected.

Arguments Heard.

Put up for ordres at 04:00 PM.

.....

At 04:00 PM

Present: None.

Order on Condonation of delay

- 1. The applicant has filed the application for condonation of delay in respect of filing the replication to the reply filed by the non-applicant. The condonation of delay application has not been filed for the application under Order IX Rule 9 Code of Civil Procedure, 1908 (hereinafter 'CPC').*
- 2. The suit i.e. CS 536/2023 was dismissed vide order dated 21.08.2024. The application under Order IX Rule 9 CPC was filed on 28.10.2024.*
- 3. As per Article 122 of the Limitation Act, 1963 which is applicable to applications under Order IX Rule 9 CPC, the application to set aside the dismissal must be filed within 30 days from the date of order of dismissal. The application filed beyond the period of 30 days is not maintainable. Further, no condonation of delay has been sought for filing the instant application. The condonation of delay application was moved only in respect of replication against the reply filed by*

the non-applicant. No reason has come forth which explains the delay in filing the application under Order IX Rule 9 CPC.

4. *Thus, in view of the fact that no condonation has been sought for filing the application under Order IX Rule 9 CPC, the instant application is clearly barred by limitation*

Order on application under Order IX Rule 9 CPC

1. *In view of the fact that, the application is barred by time. The instant application is rejected as not maintainable.*
2. *The application is disposed of in above terms.*
3. *File be consigned to record room"*

3. A bare perusal of the above would show that initially the suit of the appellant/plaintiff was dismissed on 21.08.2024 due to three consecutive non-appearances of appellant/plaintiff before the Trial Court. Eventually, an application U/O IX Rule 9 CPC was preferred without seeking any condonation of delay in filing of the said application. Since, the appellant/plaintiff did not seek any condonation of delay in moving application U/O IX Rule 9 CPC, the Ld. Trial Court dismissed the said application.
4. It was argued before this Court that the Ld. Trial Court should have taken a liberal approach in the matter and should not have rejected the application. It was also argued that any default on the part of the Counsel for plaintiff should not prejudice plaintiff.
5. No ground is laid in the appeal explaining why appellant/plaintiff did not seek condonation of delay in filing application U/O IX Rule 9 CPC. In the absence of any such application, the Ld. Trial Court was correct in concluding that the application of appellant/plaintiff U/O IX Rule 9 CPC was barred by time. The

argument that the Trial Court should have taken liberal approach in respect of limitation, cannot mean that without appellant/plaintiff praying for condonation of delay by laying grounds for such exercise of power, the Court should *suo moto* exercise the said power.

6. So considered, there is no infirmity in the impugned order. The appeal is without merit. It is dismissed.

**Announced in the
open Court on 08.06.2026**

**Aashish Gupta
District Judge-01, North-East District,
Karkardooma Courts, Delhi**