

In the Court of District Judge, South 24-Parganas at Alipore

Misc. Case No. 381 of 2017

Present : Smt. Madhumita Chowdhury (WB00954), District Judge-in-charge,
South 24 Parganas at Alipore

SMC Global Securities Limited

... Petitioner

Vs.

Anil Kumar Dubey

... Respondent

Order dated 30.09.2024

Today is fixed for steps as a last chance.

Hazira is filed on behalf of the petitioner.

None appears on behalf of the respondent.

The application filed under Section 5 of the Limitation Act is taken up for hearing.

Ld. Advocate for the petitioner prays for condonation of delay in filing the instant case on the ground that that due to mis-posting in the Advocate's diary, the petitioner could not take steps in the Misc. Appeal No. 314 of 2013 and vide order dated 03.04.2017, the said appeal was dismissed for default. Subsequently, due to illness of the petitioner's authorized person, he was not in a position to take proper advice and, thereafter, after recuperating from his illness, constituted attorney contacted the Advocate and filed the instant Misc. Case after a delay of almost 40 days. As such, the petitioner prays for condonation of delay in filing the instant case.

None appears on behalf of the respondent.

Heard the submissions made on behalf of the petitioner.

Perused the record.

Upon perusal of the case record, it appears that the instant Misc. Case

has been filed praying for restoration of the Misc. Appeal 314 of 2013 and as per the submission of the Ld. Advocate for the petitioner, there has been a delay of almost 40 days in filing the Misc. Case.

Now, it is also settled proposition that Court should adopt a liberal and justice-oriented approach while a litigant seeks for condonation of delay in taking appropriate steps into the lis. On such perspective, this Court follows the observation of the Hon'ble Apex Court in **Collector Land Acquisition V. Mst. Katiji & Ors., AIR 1987 Supreme Court 1353**, wherein to ensure substantial justice to parties by disposing of matters on 'merits', the expression "sufficient cause" employed by the legislature is made out adequately elastic to enable the Courts to apply the law in a meaningful manner which subserves the ends of justice. "Every day's delay must be explained" does not mean that a pedantic approach should be made. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated.

In view of the above observation of the Hon'ble Supreme Court, this Court in consideration of justice-oriented approach is of the view that delay in preferring the instant Misc. Case should be condoned having being satisfied with the reasons stated in the petition.

As such, the application filed under Section 5 of the Limitation Act is allowed and the delay in filing the instant case is, hereby, condoned.

The Misc. Case is, thus, admitted.

Fix **28.11.2024** for hearing of the Misc. Case.

Dictated and corrected by me

Sd/- Smt. Madhumita Chowdhury

District Judge, I/c

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