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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CS(COMM) 1053/2018**

RADHA PHOOL FIN-INVESTMENTS PVT. LTD..... Plaintiff

Through: Mr. Asheesh Jain with Mr. Adarsh
Kumar Gupta & Mr. Keshav Mann,
Advocates.

versus

PARAMSUKH NIRMAN PVT. LTD. Defendant

Through: Ms. Renuka Arora, Advocate.

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

% **24.02.2022**

[VIA VIDEO CONFERENCING]

I.A. No. 10144/2018 (for condonation of delay of 27 days in refiling the suit)

1. This application has been filed on behalf of the plaintiff under Section 151 of the Code of Civil Procedure, 1908 (CPC) seeking condonation of delay in refiling of suit.
2. It is submitted on behalf of the counsel for the plaintiff that there is no delay in refiling of the suit and the present application has only been filed by way of abundant caution.
3. It is case of the defendant that objections were raised by the registry regarding defects in the filing of the plaint on 23rd June, 2018. As per the defendants, the said defects were removed only on 28th July, 2018, which is beyond the period of 30 days provided in Rule 3 of Chapter IV of the Delhi High Court (Original Side) Rules. Therefore, it is submitted that the delay in



refiling cannot be condoned and the suit should be dismissed. It is further submitted that if the filing of the suit is to be taken from 28th July, 2018, then the suit would be time barred.

4. Counsel appearing on behalf of the plaintiff has drawn attention of the Court to a Notification dated 31st May, 2018 issued by this Court with regard to exclusion of the limitation period during the summer vacation. It is clearly mentioned in the said Notification that the limitation will not run during the vacation period for the purposes of instituting civil suits and the period of limitation would begin only upon reopening of the Court on 2nd July, 2018. Therefore, he submits that the limitation in the present case would begin to run only from 2nd July, 2018 and therefore, refiling done by the plaintiff was within the prescribed period of 30 days.

5. I have heard counsels for the parties. There is no dispute between the parties with regard to filing of the suit and the date of pointing of the defects and the refiling of the suit. It is the common case of the parties that the plaint was filed on 2nd June, 2018 and immediately thereafter, the summer vacations of this Court commenced from 3rd June, 2018. Defects were pointed out by the Registry on 23rd June, 2018 and removed on 28th July, 2018. At this stage, reference may be made to the relevant provisions of the notification dated 31st May, 2018:

“5. Limitation will not run during the vacation period for purposes of institution of Civil and Criminal cases.

xxx xxx xxx

7. Suits, Appeals, Applications or other proceedings, which are to be filed on the re-opening day, may also be instituted/preferred or made in regular course between 10.00 AM. and 4.00 P.M. from Monday, the 25th June, 2018 to Saturday, the



30th June, 2018 as per convenience of the parties though for the purpose of limitation the Court re-opens only on 02.07.2018.”

6. Even though the defects were marked on 23rd June, 2018, the summer vacations continued till 1st July, 2018. Counsel for the plaintiff has correctly pointed out that the limitation could not have run during the period of summer vacations from 2nd June, 2018 to 2nd July, 2018 and therefore, the refiling of the plaint done by the plaintiff on 28th July, 2018 could not be considered as being beyond 30 days. Accordingly, counting the period from 02nd July, 2018, when the Court reopened, it cannot be said that the refiling was not done within 30 days.

7. Accordingly, I am of the view that there is no delay in refiling of the suit by the plaintiff and therefore, no orders are required to be passed in the present application.

8. The application is disposed of in above terms.

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9. List for Case Management hearing on 26th April, 2022.

AMIT BANSAL, J

FEBRUARY 24, 2022

Sakshi R.