

CMP(M) No. 903 of 2017

31.10.2017

Present: Mr. G.C. Gupta, Senior Advocate with Ms. Meera Devi, Advocate, for the applicant.

Mr. B.C. Negi, Senior Advocate with Mr. Raj Negi, Advocate, for respondent No. 1.

None for proforma respondents No. 2 & 3, though served, hence proceeded *ex parte*.

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The present application is maintained by the applicant under Section 5 of Limitation Act, for condoning the delay of 36 days in filing the appeal. As per applicant, the appeal could not be filed within limitation due to communication gap between the learned counsel and the applicant and as the applicant was out of station for the treatment of his father, who is handicapped and when the applicant contacted his counsel, he came to know that appeal is already time barred. However, immediately thereafter the applicant applied for the copy of judgment and moved the present application alongwith appeal, in this process, the delay of 36 days has occurred, which was neither intentional nor willful. The application is duly supported with an affidavit. No reply to the application has been filed.

Heard. Taking into consideration the fact that the delay has sufficiently been explained and it was not within the control of the applicant for the reasons stated in the application, each days delay has been explained for the

reasons given in the application and as stated hereinabove. Consequently, the delay of 36 days, in filing the appeal, is condoned. The application stands disposed of.

RSA No. _____ & CMPST No. 25379 of 2017

Appeal and application be registered.

Notice. Mr. Raj Negi, Advocate, appears and waives notice on behalf of respondent No. 1. Issue separate notice to proforma respondents No. 2 & 3 returnable within four weeks, on taking steps within a week. List for admission, as well as consideration on **28th November, 2017**.

As prayed, list alongwith RSA No. 395 of 2017.

(Chander Bhusan Barowalia)
Judge

31st October, 2017
(raman)

