

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

+ FAO(OS) 57/2008 and CM No.1736/2008

% **Date of decision : 26.2.2008**

SUAVE APPARELS P.LTD. & ORS. .... Appellants  
Through Mr.R.P. Bansal, Sr. Advocate with  
Mr.Sheetesh Khanna, Advocate

versus

HARISH KAPOOR ..... Respondent  
Through Mr.Rajesh Ranjan, Advocate

**CORAM:**

**HON'BLE THE CHIEF JUSTICE**  
**HON'BLE MS. JUSTICE REVA KHETRAPAL**

1. Whether reporters of local papers be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether the judgment should be reported in the Digest ?

**DR. MUKUNDAKAM SHARMA, CJ (oral)**

1. Heard learned counsel appearing for the parties on this appeal, which is filed by the appellant challenging the legality of the order dated 8<sup>th</sup> January, 2008 passed by the learned Single Judge issuing an order that the right to file the written statement of the appellants would stand closed as they did not file the written statement within the time stipulated.

2. The appellants / defendants had entered appearance after

service of notice on them on 5<sup>th</sup> October, 2007. No written statement was filed within 30 days. The learned Single Judge held that even thereafter 65 days had passed and despite the said fact no written statement was filed and, therefore, right to file the written statement would stand closed.

3. On perusal of the records we find that there is practically a delay of five days when the aforesaid order was passed on 8<sup>th</sup> January, 2008. However, considering the facts and circumstances of the case and also the fact that the case for setting aside the order passed by the learned Single Judge on 8<sup>th</sup> January, 2008 is made out and that the ratio of the decision of the Supreme Court in **R.N.Jadi and Brothers and ors. v. Subhashchandra** reported in AIR 2007 SC 2571 : JT 2007 (9) SC 165 would be applicable in the facts and circumstances of the present case, we accordingly set aside the order of the learned Single Judge by allowing this appeal, but subject to payment of costs of Rs.10,000/- (Rupees ten thousand only), which shall be paid to the respondent within three weeks from today. The appellants shall file their written statement within four weeks from today. Subject to payment of the aforesaid costs to the respondent within three weeks from today, the learned Single Judge would allow the appellants to file the written statement, which, when filed, shall be taken on record and thereafter the suit shall be proceeded with in accordance with law.

4. In terms of the aforesaid order, the appeal stands disposed of.
5. Copy of this order be given **dasti** to the counsel appearing for the parties.

**CHIEF JUSTICE**

**REVA KHETRAPAL, J**

**FEBRUARY 26, 2008**  
**nm**