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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ FAO(OS) 273/2013
PUSHPA JAIN & ORS.

..... Appellants

Through : Mr. Abhijit Sinha, Adv.

versus

RAMESH KUMAR JAIN & ANR.

..... Respondent

Through : Mr. Anklal, Adv. for R-1.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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19.07.2013

**FAO(OS) 273/2013 & CM Nos. 8897/2013(stay), 8899/2013(condonation
of delay in re-filing the appeal)**

The present appeal is directed against an order of the learned Single Judge dated 27th February, 2013 whereby the appellants/defendants' right to file written statement to the amended suit was foreclosed. The defendants/appellants submitted that the reply to the amendment application itself discloses that a copy of the proposed amended suit had not been furnished. It was submitted that in the circumstances, the Court directions made on 9th November, 2012 while permitting them amendment, to file the written statement could not be complied with. Counsel for the

plaintiffs/respondents states that the amendment was necessitated on the ground of the averments made by the defendants in the written statement with regard to the subsequent events which occurred during the pendency of proceedings. It was submitted that having known that the amendments were forthcoming, defendants sought to delay the proceedings and the learned Single Judge was justified in refusing to extend the time to file the written statement.

This Court notices that the proceeding is pending before the Single Judge is a partition suit. Apparently, the plaintiffs chose to amend the suit a year and a half after its institution on the ground that the written statement disclosed certain facts which needed to be reflected in the plaint. Though the defendants did not file the amended written statement in time, there is some material on the record to suggest that the plaintiffs had not furnished a copy of the amended suit at least at the stage while the amendment application had been preferred.

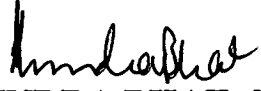
Having regard to these facts and overall circumstances of the case, the Court is of the opinion that the appellants have a justified grievance. In the circumstances, the plaintiffs/respondents are granted liberty to file written statement within two weeks from today subject to payment of Rs.25,000/- as

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costs to the defendants/appellants.

The parties shall appraise the present order to the learned Single Judge on 23rd July, 2013 when the matter is scheduled for hearing. Copy of the amended plaint has been furnished to the counsel for the defendants/applicants during the course of hearing.

The appeal is allowed in the above terms.


S. RAVINDRA BHAT, J

NAJMI WAZIRI, J

JULY 19, 2013/'sn'

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO(OS) 273/2013**
PUSHPA JAIN & ORS. Appellant
Through: None.
versus
RAMESH KUMAR JAIN & ANR. Respondents
Through: Mr Abhishek Tiwari, Adv. for R-I.

CORAM:
HON'BLE MR. JUSTICE BADAR DURREZ AHMED
HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER
% **08.10.2013**

CM No.16050/2013

This is an application filed on behalf of the respondent/plaintiff for clarification of certain typographical errors which had crept into the order dated 19.07.2013. It is contended that where the plaintiffs /respondents have been referred to, the reference is actually to the appellants/defendants inasmuch as the direction that has been issued by the Court is that the "plaintiffs/respondents" are granted liberty to file a written statement. It is obvious that a plaintiff does not file a written statement and it is the defendant who has to file the written statement. The typographical errors have crept into the following paragraph of the order dated 19.07.2013

"Having regard to these facts and overall circumstances of the case, the Court is of the opinion that the appellants have a justified grievance. In the circumstances, the plaintiffs/respondents are granted liberty to file written statement within two weeks from today subject to payment of Rs.25,000/- as costs to the defendants/appellants."

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The said paragraph should read as under:-

“Having regard to these facts and overall circumstances of the case, the Court is of the opinion that the appellants have a justified grievance. In the circumstances, the defendant nos.1 to 3/appellants are granted liberty to file written statement within two weeks from today subject to payment of Rs.25,000/- as costs to the plaintiff/respondent no.1.”

The application stands disposed of.


BADAR DURREZ AHMED, J


VIBHU BAKHRU, J

OCTOBER 08, 2013
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