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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CS(OS) 2711/2015

SH. DEEPAK AGGARWAL

..... Appellant

Through: Mr. Rajiv Tyagi and Mr. Sidhant
Tyagi, Advs.

versus

SH. RAJ GOYAL AND ORS.

..... Respondents

Through

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

% **03.11.2017**

**Review Petition No.465/2017 (Review of order dated 28.10.2015) and
I.A.No. 12700/2017 (delay of 5 days in filing Review Petition)**

1. Firstly in my opinion, the review petition filed is grossly time barred because the review petition had to be filed within 30 days of the judgment dated 28.10.2015 plus time taken for certified copy but this review petition is filed on 16.10.2017 without any proper application for condonation of delay. The application for condonation of delay cannot be called an application for condonation of delay because application claims that there is a delay of only 5 days and the period spent is said to be excluded on account of a suit having been filed by the defendant no.2. Filing of fresh suit by the

defendant no.2 cannot in any manner extend limitation and this cannot be a ground for enlarging the period of review. The review petitioner/plaintiff was duly represented when the judgment dated 28.10.2015 was passed and therefore, it cannot be argued that there is only a delay of 5 days in filing of this review petition on 16.10.2017. Review petition is therefore grossly time barred and is accordingly dismissed.

2. Also, in any case, this Court cannot sit as an appellate court against a challenge to the judgment passed on 28.10.2015 and remedy of the appellant can only be to file an appeal against the judgment dated 28.10.2015 if the review petitioner/plaintiff is not satisfied by the judgment dated 28.10.2015. Scope of review petition would only be if there is an error on the face of the record and there is no error on the face of the record for reviewing of the judgment dated 28.10.2015.

3. The review petition and connected application are accordingly dismissed with the aforesaid observations.

VALMIKI J. MEHTA, J

NOVEMBER 03, 2017

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