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

+ **CS(OS) 213/2011**

SUHAS CHAKMA

..... Plaintiff

Through: **Mr. Nitesh Kumar Singh, Advocate.**

versus

BHASKAR PAL & ORS

..... Defendants

Through: **Mr. Anuj Kapoor, Advocate for
defendant No.1.**

**Mr. Gautam Bhatia, Advocate for
defendant No.5.**

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

% **18.04.2016**

1. The matter is taken up today as 14.4.2016 was declared a holiday on account of birthday of Dr. B.R. Ambedkar.

O.A. No.31/2014

2. By this O.A. defendant no.1 challenges the order passed by the Joint Registrar dated 16.11.2013 closing the right of the defendant no.1 to file the written statement. The Joint Registrar in the order notes that there is a delay of around one year beyond the statutory period prescribed for filing of the written statement. There was also a delay thereafter which was

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sought to be condoned of 343 days in filing of the application under Order 8 Rule 1 of Code of Civil Procedure, 1908 (CPC). The Joint Registrar by a detailed order has found no merits in the application of the defendant no.1 being I.A. No.2515/2013 filed under Order 8 Rule 1 CPC and has therefore dismissed the same.

3. Though *prima facie* I do not find any error in the impugned order, counsel for the plaintiff has been more than fair in agreeing that the O.A. be allowed by allowing I.A. No.2515/2013 inasmuch as plaintiff's case is being unnecessarily delayed, however, since the defendant no.1 is guilty of delay in conduct of the suit on the ground that he is a resident of U.S.A, heavy costs be imposed. I was inclined to impose costs of Rs.50,000/- considering that defendant no.1 will now get a valuable right to file the written statement, however, in the interest of justice, costs of Rs.25,000/- will suffice for being paid to the counsel for the plaintiff. Costs be paid within six weeks from today.

4. In view of the peculiar facts of this case, the transferee court is requested to expedite the disposal of the suit and if unnecessary adjournments are sought on behalf of defendant no.1, appropriate costs will

be imposed upon the defendant no.1.

5. O.A. is allowed and disposed of in terms of aforesaid observations.

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6. An Office Order dated 24.11.2015 has been issued by Hon'ble the Chief Justice in exercise of powers conferred by Section 4 of the Delhi High Court (Amendment) Act, 2015, whereby ordinary suits which are not commercial matters having pecuniary jurisdiction up to the value of rupees two crores cannot be tried by this Court and commercial matters up to the value of rupees one crore cannot be tried by this Court. Accordingly, this suit is transferred for decision to the jurisdictional Court under the District & Sessions Judge (South), Saket Courts, New Delhi.

7. Let parties appear before the District & Sessions Judge (South), Saket Courts, New Delhi on 23rd May, 2016. Suit file be made available to the District & Sessions Judge (South), Saket Courts, New Delhi, on the date fixed.

VALMIKI J. MEHTA, J

APRIL 18, 2016

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