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

+ **CS(OS) 133/2014**

CHARANJEET SINGH & ANOTHER Plaintiff
Through: Mr. Rahul Shukla, Advocate

versus

D.K. RUSTAGI & ANOTHER Defendants
Through: Mr. Manan Bansal, Advocate for D-1.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **08.12.2016**

Review Petition No.538/2016 (under Section 114 read with Order 47 Rule 1 CPC by the plaintiff directed against order dated 25.11.2016)

1. Issue notice. The counsel for defendant no.1 accepts notice.
2. Heard.
3. As pointed out by the counsel for the review petitioner, the certified copy of the order dated 17.08.2015 of the Joint Registrar which was impugned by OA No.436/2015 was applied for on 24.08.2015 and the certified copy was supplied on 20.10.2015. In these circumstances, the original appeal was filed on 28.10.2015 within the period of limitation. These facts were not brought out at the instance of the plaintiff on 16.08.2016 when it was instead conceded that there was a delay for which an application for condonation required to be filed and time taken for such purposes and further on 25.11.2016 when the original appeal was actually taken up for hearing and disposed of it being found time barred.
4. Since the original appeal (OA No.436/2015) was not time barred, the order dated 25.11.2016 disposing it is recalled. It is only hoped that the

counsel Mr. Rahul Shukla, Advocate who has now appeared to own up his responsibility for the default and deficiency in earlier submissions, will take care in future.

5. By order dated 25.11.2016 the main case has already been transferred to the court of District Judge, New Delhi at Patiala House Courts where the parties are directed to appear on 20.12.2016. Having regard to this fact, the learned counsel on both sides now agree that the original appeal (OA No.436/2015) may be treated as a review application directed against the order dated 17.08.2015 of the Joint Registrar (judicial) whereby IA No.4764/2015 under Section 151 CPC of the plaintiff was dismissed with costs. The learned trial court shall proceed with the matter accordingly.

6. The review application at hand is disposed of in above terms.

7. The parties may appear before the District Judge, New Delhi at Patiala House Court on 20.12.2016 in terms of the earlier directions.

R.K.GAUBA, J.

DECEMBER 08, 2016

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