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

+ C.R.P. 77/2016

RIAZUDDIN THROUGH LRS Petitioner
Through Mohd.Iqbal, Adv.

versus

MOHD. NASIR Respondent
Through Mr.Arun Sharma, Adv.

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

ORDER
03.10.2016

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1. By the present petition the petitioner seeks to impugn the order dated 19.2.2016 by which an application filed by the petitioner under section 5 of the Limitation Act was dismissed.
2. The petitioner filed a suit for possession, mesne profit, damages, permanent and mandatory injunction. The suit was dismissed on 14.09.2015 after trial. Against the said order the petitioner filed an RFA before the trial court. Alongwith the RFA an application was filed under section 5 of the Limitation Act seeking condonation of delay in filing the appeal. The appeal was filed on 16.11.2015. There is hence a delay of about one month in filing of the appeal. The trial court dismissed the application holding that a perusal of the application for condonation of delay will show it is conspicuously vague, there is no computation of period of limitation.
3. It is true that the appeal should have been drafted in a better manner. The only grounds stated in the application is that the petitioners applied for

certified copy and thereafter some days passed in discussion and preparation of the appeal and thereafter after passing of Dusshera and Diwali holidays and hence the appeal has been filed.

4. In my opinion, in the facts and circumstances of this case, a liberal view would have to be taken about the issue of condonation of delay. The delay is only of about 30 days and if one were to interpret the facts in a liberal manner sufficient cause is shown to condone the delay.

5. Accordingly, the present petition is allowed and the impugned order dated 19.2.2016 is set aside. The matter is remanded back to the Court of Additional District Judge who will now hear the appeal filed by the petitioner under section 96 CPC on merits.

6. Parties to appear before the concerned court on 21.11.2016.

JAYANT NATH, J

OCTOBER 03, 2016

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