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

+ **FAO 162/2016**

THAKUR DASS KUMBNANI Appellant

Through: **Mr. Manish Sharma, Advocate**

versus

JAGDISH KUMAR & ORS. Respondents

Through: **Mr. Dinesh Prashar & Mr.N.P.
Mangla, Advocates**

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

% **25.07.2016**

C.M.No. 8915/2014 (under Section 5 of The Limitation Act r/w Sec. 151 CPC)

There is delay of 366 days in filing the accompanying appeal.

Vide order of 7th February, 2013 appellant's suit has been dismissed in default. The said order has been challenged in the appeal. It is pointed out that the delay has occurred because appellant had sought restoration of the suit which was declined on 18th April, 2013 and thereafter, review of order of 16th January, 2014 was sought and the review application was also dismissed in January, 2014. Appellant was ill advised to file a Regular First Appeal on 3rd May, 2014, which has now been converted to First Appeal against Order on 6th April, 2016.

Upon hearing both the sides on this application, this Court finds that sufficient cause is shown, as medical papers of appellant have been

filed along with this application to seek condonation of delay and apart from pursuing wrong remedy, there is ample justification to condone the delay.

The application is accordingly allowed and delay of 366 days in filing the accompanying appeal is condoned.

C.M.No.6757/2015 (under Section 5 of The Limitation Act)

For the reasons stated in the application, delay of 188 days in re-filing the documents is condoned.

Application is disposed of.

C.M.No.6758/2015 (under Section 5 of The Limitation Act r/w Sec. 151 CPC)

Delay of 43 days in filing the certified copies is condoned for the reasons stated in the application.

Application is disposed of.

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Learned counsel for appellant does not press this appeal on merits with permission to challenge the order of 18th April, 2013 and January, 2014, vide which restoration of the review petition have been dismissed .

The appeal is accordingly dismissed as not pressed, with liberty as aforesaid. Needless to say that the benefit of Section 14 of the Limitation Act shall flow to the appellant as and when recourse to appropriate remedy is taken by the appellant.

**(SUNIL GAUR)
JUDGE**

JULY 25, 2016

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