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

+ CRL.M.C. 3424/2014

NAVEEN MALHOTRA & ANR Petitioners

Represented by: Mr.O.P.Gulabani, Advocate with
Ms.Kohika Gaur, Advocate

versus

THE STATE & ANR Respondents

Represented by: Mr.Amit Ahlawat, APP
Ms.Seema Gupta, Advocate for R-2

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

ORDER

% **07.09.2016**

1. Heard learned counsel for the parties. Record of CR No.132/2013 decided by Sh.Vijay Kumar Dahiya, ASJ-II, Dwarka Courts, New Delhi has been perused.

2. Indeed, the record would evince that service was not affected upon the petitioners when CR No.132/2013 was decided. The record would show that the revision filed by the respondent No.2-bank was listed firstly on August 30, 2013. Notice was issued to the petitioners returnable for September 11, 2013. Order of said date records that on account of process fee not being filed notice could not be issued. Fresh notice returnable for September 28, 2013 was issued.

3. Order dated September 28, 2013 records presence of the parties along

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with their counsel. Name of counsel is not recorded. The order does not record that upon being served the petitioners appeared through counsel. The record of the file does not show any process fee being filed. The record does not show any notice issued.

4. It is thus apparent that CR No.132/2013 was decided by the learned ASJ-II without serving the petitioners.

5. The instant petition is allowed. Impugned Order dated September 28, 2013 is set aside. CR No.132/2013 is restored for adjudication afresh before ASJ-II, Dwarka Courts, New Delhi.

6. The petitioners and the counsel for the bank are informed that on restoration CR No.132/2013 shall be taken up for consideration by the learned ASJ-II, Dwarka Courts, New Delhi on September 26, 2016.

7. Issue of maintainability of the revision petition would be decided.

8. At this stage learned counsel for the bank informs that in proceedings before DRT the petitioners are not being served notwithstanding notice being sent to them at the address given in the memo of parties in the instant petition.

9. It is agreed that qua issue of service upon the petitioners in proceedings before DRT, the date and the number of original application filed by the bank being communicated by learned counsel for the bank to learned counsel for the petitioners they would be treated as having intimation of said proceedings and of being served.

10. The TCR be returned through special messenger within 2 days.

11. No costs.

Crl.M.A.No.11866/2014

Disposed of as infructuous.

SEPTEMBER 07, 2016

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PRADEEP NANDRAJOG, J.