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IN THE HIGH COURT OF DELHI AT NEW DELHI

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C.R.P. 80/2016

M/S DIALNET COMMUNICATIONS LTD & ORS

..... Petitioners

Through Mr.Ashish Virmani and Mr. Priyank
Mangal, Advocates.

versus

M/S T K LEASING & FINANCE PVT LTD

..... Respondent

Through Nemo.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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20.05.2016

C.M. Nos.19348-49/2016 (exemption)

Exemption is allowed subject to just exceptions. Application disposed of.

C.R.P. 80/2016 & C.M. No.19347/2016 (stay)

Impugned order is the order dated 04.5.2016 vide which on the application filed by the respondent (plaintiff in the Trial Court) seeking restoration of his suit which had been dismissed in default on an earlier date had been restored. The suit had been dismissed in default on 10.10.2015. The application under Order IX Rule 9 of the CPC came to be filed on 20.11.2015 along with the said application there was an application seeking condonation of delay. There were two reasons quoted in the said application; first reason was that the authorized representative of the plaintiff who had to sign the

application was not available; the second reason was that he was not well. These facts were considered by the Trial Court. Trial was yet to commence. The grievance of the petitioner is that the aforementioned application was filed after a delay; there was no explanation for this unjustifiable delay which as per him was about 10 days. That apart his submission is that the contention of the plaintiff that on 10.10.2015 he had appeared in the Court and found that his suit was not mentioned in the cause list is belied by the fact that 10.10.2015 was a second Saturday.

All these arguments were considered by the Trial Court. The averments made in para 6 of the application wherein the objection qua 10.10.2015 has been mentioned has also been noted. Even presuming that 10.10.2015 was a second Saturday, it did not preclude the plaintiff from visiting the Court premises. His contention in para 6 is that he had learnt about the fate of his suit on that date. Application seeking condonation of delay had spelt out the reasons as noted supra which was the explanation furnished by him seeking condonation of delay.

The Trial Court has exercised its discretion wisely. There is no perversity or arbitrariness in the impugned order which can call for any interference by this Court in its revisional jurisdiction. Petition is dismissed with cost of Rs.10,000/- to be deposited with the Delhi High Court Legal Services Committee.

INDERMEET KAUR, J

MAY 20, 2016

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