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

+ **FAO(OS) 127/2015**

M/S JAINCO DEVELOPERS PVT LTD & ANR Appellant

Represented by: Mr.Dinesh Kumar Gupta, Adv.

versus

M/S DEV INFRASTRUCTURES PVT LTD & ORS..... Respondent

Represented by: Mr.Dhananjay Shahi, Adv.

+ **FAO(OS) 162/2015**

M/S JAINCO DEVELOPERS PVT LTD Appellant

Represented by: Mr.Dinesh Kumar Gupta, Adv.

versus

M/S DEV INFRASTRUCTURES PVT LTD & ORS..... Respondent

Represented by: Mr.Dhananjay Shahi, Adv.

+ **FAO(OS) 164/2015**

M/S SPARSH BUILDERS PVT LTD Appellant

Represented by: Mr.Dinesh Kumar Gupta, Adv.

versus

M/S DEV INFRASTRUCTURES PVT LTD & ORS..... Respondent

Represented by: Mr.Dhananjay Shahi, Adv.

+ **FAO(OS) 168/2015**

M/S SPARSH BUILDERS PVT LTD Appellant

Represented by: Mr.Dinesh Kumar Gupta, Adv.

versus

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M/S DEV INFRASTRUCTURES PVT LTD & ORS..... Respondent
Represented by: Mr.Dhananjay Shahi, Adv.

CORAM:
HON'BLE MR. JUSTICE PRADEEP NANDRAJOG
HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER
% **19.02.2016**

CM 6099/2016 (by R-1 & R-2) in FAO(OS) 127/2015

1. For the reasons stated in the application 118 days delay in filing reply to the appeal and reply to CM Nos.5125-5126/2015 is condoned.
2. The replies filed are taken on record.

CM 6096/2016 (by R-1 & R-2) in FAO(OS) 162/2015

1. For the reasons stated in the application 118 days delay in filing reply to the appeal and reply to CM Nos.6309-6310/2015 is condoned.
2. The replies filed are taken on record.

CM 6098/2016 (by R-1 & R-2) in FAO(OS) 164/2015

1. For the reasons stated in the application 118 days delay in filing reply to the appeal and reply to CM Nos.6315-6316/2015 is condoned.
2. The replies filed are taken on record.

CM 6100/2016 (by R-1 & R-2) in FAO(OS) 168/2015

1. For the reasons stated in the application 118 days delay in filing reply to the appeal and reply to CM Nos.6341-6342/2015 is condoned.
2. The replies filed are taken on record.

CM 5126/2015 (delay) in FAO(OS) 127/2015

CM 6310/2015 (delay) in FAO(OS) 162/2015

CM 6316/2015 (delay) in FAO(OS) 164/2015

CM 6342/2015 (delay) in FAO(OS) 168/2015

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1. Having heard learned counsel for the parties and noting that delay in filing the appeals is of 2 days pertaining to FAO(OS)127/2015 & FAO(OS) 168/2015 and 35 days in FAO(OS)162/2015 & FAO(OS)164/2015, we condone the delay in filing the appeals.

2. Applications are allowed.

FAO(OS) 127/2015

FAO(OS) 162/2015

FAO(OS) 164/2015

FAO(OS) 168/2015

1. Learned counsel for the appellants does not press the appeals concerning the view taken by the learned Single Judge that M/s.Jainco Developers Pvt. Ltd. and M/s.Sparsh Builders Pvt.Ltd. are necessary parties in the suit. However, counsel states that on account of the fact that applications filed by the two appellants under Order I Rule 10 of the Code of Civil Procedure (CPC) were pending, written statement was not filed. On January 15, 2015 the applications filed by the appellants under Order I Rule 10 of the CPC praying that their names be deleted from array of defendants was dismissed and simultaneously on same day right to file written statement was closed.

2. Having perused the record of the suit and finding that applications filed by the appellants under Order I Rule 10 CPC for deletion of their names were filed in the year 2013 but unfortunately could not be decided expeditiously; and were decided on January 15, 2015, interest of justice warranted that 30 days time ought to have been granted to appellants to file written statements.

3. We dispose of the appeals setting aside the second order penned in the

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suit on January 15, 2015 closing right of the appellants to file the written statement.

4. Written statements shall positively be filed by the appellants within 30 days from today.

5. No cost.

CM 5125/2015 (u/O.XLI R.5) in FAO(OS) 127/2015

CM 6309/2015 (u/O.XLI R.5) in FAO(OS) 162/2015

CM 6315/2015 (u/O.XLI R.5) in FAO(OS) 164/2015

CM 6341/2015 (u/O.XLI R.5) in FAO(OS) 168/2015

Dismissed.


PRADEEP NANDRAJOG, J.


MUKTA GUPTA, J.

FEBRUARY 19, 2016

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