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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 391/2015
JAI PRAKASH & ORS

..... Petitioners

Through Mr. Rupesh Kumar, Adv.

versus

PREM SAHDEV & ORS

..... Respondents

Through Mr. Manish Garg and Mr. Hitesh Kr.
Bagri, Advs.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **08.02.2016**

Order impugned before this Court is the order dated 03.02.2015 vide which the Appellate Court i.e. the Court of learned Additional District Judge had dismissed the application of the petitioner under Order XXXIX Rules 1 & 2 of the CPC simplicitor on the ground of limitation. As per the Trial Judge, there was no explanation for the delay as there appears to be a delay of almost three weeks in preferring the appeal.

Record shows that the impugned order had been passed by the Civil Judge on 01.04.2010. The contention of the petitioner/appellant before the Appellate Court was that he had applied for the certified copy of the order on 23.04.2010 (as he learnt about the passing of that order only on 22.04.2010) and the copy of the same has been furnished to him on 28.04.2010. The appeal was filed on 13.05.2010. Delay has been explained.

The Trial Judge without going into the merits of the controversy had dismissed the application only on the ground of limitation.

The impugned order is set aside. The Trial Judge will consider the matter afresh and pass an order on merits of the contentions of the respective parties. Parties are directed to appear before the concerned Additional District Judge on 29.02.2016.

With these directions, petition disposed of.

INDERMEET KAUR, J

FEBRUARY 08, 2016

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