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

+ **FAO(OS) 192/2016 & CM 24132-33/2016**

KOTAK MAHINDRA BANK LIMITED Appellant

Through Mr Sumit Bansal, Adv. with Mr Ateev
Mathur, Adv.

versus

J H JEWELLERS & ORS Respondents

Through Mr Manav Gupta, Adv. with Mr Sahil
Garg, Ms Ridhi Munjal & Mr Nikhil
Sharda, Adv.

CORAM:

HON'BLE MR. JUSTICE BADAR DURREZ AHMED

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **20.12.2016**

This appeal is directed against the order dated 23.09.2015 passed by a learned single Judge of this Court in IA No.20181/2015 seeking condonation of delay in filing the chamber appeal (OA No.371/2015) in respect of the order dated 16.10.2014. At the outset, we may point out that the present appeal is also accompanied by an application for condonation of delay and we had issued notices only in the condonation of delay application.

The present appeal has been filed after a delay of 221 days from the said impugned order dated 23.09.2015. The Chamber appeal being OA No.371/2015 had also been filed after a delay of 315 days and it is for that reason that the application for condonation of delay being IA No.20181/2015 had been filed before the learned single Judge. We may point out that the chamber appeal was directed against the order dated 16.10.2014 whereby the Joint Registrar had closed the right of the appellant/defendant no.4 for filing the written statement as the

same had not been filed during the period provided. In fact, the written statement was filed only after 102 days delay i.e. even beyond the period of 90 days. Thus, we find that at each stage, the appellant has taken steps after a great delay. If the total extent of delay is computed, it would amount to 638 days delay in pursuing these proceedings. If we were to allow this application for condonation of delay, we would, in fact, be condoning the delay of 638 days. We do not find any sufficient cause for condoning such delay. In fact, we do not find any infirmity in the decision of the learned single Judge in not condoning the delay of 350 days in filing of the chamber appeal. The reasons have been given in the detailed impugned order itself which we need not repeat.

The delay in filing the present appeal cannot be condoned. The application is dismissed, consequently, the appeal also stands dismissed. There shall be no order as to costs.

The sum of Rs.5 lacs which has been deposited pursuant to an order of this Court, be returned to the appellant.

BADAR DURREZ AHMED, J

ASHUTOSH KUMAR, J

DECEMBER 20, 2016/ab