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

+ CM(M) 704/2016

TAJINDER SINGH BAKSHIR & ANR Petitioners
Through Ms. Seema Singh and Mr.Sagar
Aggarwal, Advocates.

versus

DALJEET KAUR & ORS Respondents
Through None.

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% 29.07.2016

CM No .26055/2016 (exemption)

Exemption is allowed subject to all just exceptions.

CM(M) 704/2016 and CM Nos. 26054/2016 (stay)

1. By the present petition, the petitioner seeks to impugn the order dated 11.05.2016 and 30.05.2016 passed by the trial court seeking a direction for waiving off the cost imposed upon the petitioners and for allowing the petitioners to file the written statement.
2. A perusal of the order dated 11.05.2016 shows that the court, in the interest of justice, subject to costs of Rs.6,000/- gave a last opportunity to the defendants/petitioners to pursue the matter. The court also noted that as no written statement has been filed by the defendants, the right of the defendants to file the written statement was closed. On 30.05.2016, a proxy counsel appeared for the defendants and stated that the main counsel is not

available for some personal reasons. The trial court in view of the last order dated 11.05.2016 proceeded ex parte against the petitioners/defendants.

3. Learned counsel appearing for the petitioners states that in the application under Order 9 Rule 7 CPC it is stated that it was the association of advocates which had been engaged by the defendants have split up. It is also stated that because of family and other reasons, the new counsel to whom the matter was assigned by the defendants could not appear before the trial court.

4. It is further pointed out that on 21.03.2016, the defendants appeared in person before the court of Ms. Mona Tardi, Kerketta, the Predecessor of the present court. They were informed that the Presiding Officer was on leave. They were also informed by the court staff that the matter has been transferred from the said court. It is urged that defendants/petitioner were under a bona fide belief that they will receive further court notice from the court to which the present matter was transferred and that in any case, they were unable to trace out the matter.

5. To a question posed by the court, the learned counsel for the petitioner submits that the matter is still pending and has not been disposed of.

6. In the interest of justice, liberty is granted to the petitioners to file an application for review/recall of the earlier orders within one week from today along with the written statement. In case any such review petition is filed, the trial court is requested to deal with the same keeping in view the averments as stated in the application filed by the petitioners as noted above. On the next date before the trial court, the petitioners shall also pay the

necessary costs imposed by the trial court to the plaintiff.

7. The petition stands disposed of with the above observations.

Dasti.

JAYANT NATH, J

JULY 29, 2016

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