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

+ CM(M) 10/2014

UNION OF INDIA

..... Petitioner

Through: Mr.Praveen Kumar Jain, Advocate.

versus

BAHAL SINGH

..... Respondent

Through: Mr.R.S.Sahni, Advocate.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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25.05.2017

1. The petitioner Union of India has invoked the extraordinary jurisdiction of this Court under Article 227 of the Constitution of India praying for setting aside the order dated 9th October, 2012 whereby the appeal bearing RCA No.1/2012 has been dismissed being time barred and also for non-prosecution and the order dated 27th April, 2013 whereby the application under Section 151 CPC praying for restoration of the appeal has also been dismissed by the learned Appellate Court.

2. Learned counsel for the petitioner submits that cost of Rs.10,000/- and Rs.5000/- imposed by this Court vide order dated 10th February, 2015 and order dated 2nd February, 2017 respectively have already been paid. Proof of deposit/payment of cost has been placed on record. However, the cost of Rs.1500/- and Rs.3000/- imposed by the learned First Appellate Court vide orders dated 21st February, 2012 and 28th August, 2012 are yet to be paid.

3. Learned counsel for the petitioner submits that procedural delay and recusal by the earlier counsel are the contributing factors for delay in paying the cost, subject to which the delay in filing the appeal was to be condoned. He further submits that in the interest of justice, delay in filing the appeal may be condoned subject to such conditions, as deemed fit by this Court.
4. Learned counsel for the respondent Mr.R.S.Sahni submits that the petitioner being Union of India, he has no objection if the prayer of the petitioner is allowed and appeal is directed to be heard on merits, subject to such conditions as deemed fit by this Court.
5. In view of the above submissions, the impugned orders dated 9th October, 2012 and 27th April, 2013 are set aside. The delay in filing the appeal before the First Appellant Court is condoned subject to payment of cost of Rs.25,000/- to learned counsel for the respondent.
6. The appeal is restored to its original number. Only one opportunity is granted to the petitioner/Union of India to pay the cost so that after condonation of delay, the appeal can be heard on merits by the First Appellate Court.
7. Parties are directed to appear before the District & Sessions Judge, Central District, Tis Hazari Court, Delhi on 3rd August, 2017, who may assign the appeal to the Court having jurisdiction to try and entertain the appeal.
8. The cost of Rs.25,000/- shall be paid by the petitioner to the learned Counsel for the respondent on or before 3rd August, 2017.
9. The petition is disposed of in above terms.
10. It is made clear to the learned counsel for the petitioner that if the cost is not paid on or before 3rd August, 2017, this petition shall stand dismissed

and that procedural delay in getting the cost sanctioned will not be a ground for seeking extension of time to pay the cost.

11. A copy of this order be sent to the Court of learned District Judge and Sessions Judge (Central District) for information and compliance and be also given dasti to learned counsel for the parties under the signature of Court Master, as prayed.

PRATIBHA RANI, J.

MAY 25, 2017

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