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

+ CM(M) 886/2016

SOHAN LAL ARORA

..... Petitioner

Through: Mr. O.N. Rattanpal & Mr. Rajeev Kumar  
Bhola, Advocates.

versus

MUNICIPAL CORPORATION OF DELHI & ORS.

..... Respondents

Through: None.

**CORAM:**

**HON'BLE MR. JUSTICE JAYANT NATH**

**ORDER**

% **07.09.2016**

**C.M. Nos.32781-32782/2016 (for exemption)**

Allowed, subject to all just exceptions.

The applications stand disposed of.

**CM (M) No.886/2016**

1. By the present petition, the petitioner seeks to impugn the order dated 2.12.2014 by virtue of which the application filed by the petitioner under Section 151 CPC to place on record certain additional documents which he had obtained through RTI on 17.2.2014, after framing of issues, was dismissed.

2. The learned counsel for the petitioner submits that the trial court dismissed the said application while going through the documents which have been filed by the petitioner along with his plaint. Based on observations relating to the said documents, he

submits that the trial court concluded that these documents were already available with the petitioner at the time of filing of the suit and hence, no ground was made out to permit the petitioner to place these documents on record.

3. The learned counsel for the petitioner submits that the documents mentioned in the impugned order are already on record of the trial court and filed by the petitioner along with his plaint. The trial court has erroneously not considered the documents which were filed along with his application under Section 151 CPC which were the documents which were sought to be placed on record by the petitioner.

4. A perusal of the record shows that it is the contention of the petitioner that there is an error apparent on the face of the record of the order and hence, an application for review under Order 47 Rule 1 & 2 CPC was filed by the petitioner on 5.2.2015, that is, with a delay of 24 days. Subsequently, the petitioner filed an application under Section 5 of the Limitation Act seeking condonation of the said 24 days delay. The trial court noted that the petitioner has failed to show any 'sufficient cause' for condonation of delay and accordingly, dismissed the application and consequently, dismissed the application for review also.

5. Despite an advance copy of this petition having been sent to the respondent by speed post on 11.8.2016, none is present for the respondent.

6. A perusal of the application under Section 5 of the Limitation

Act shows that the petitioner in the said application has pleaded that despite several requests made by the petitioner, the counsel delayed in applying for the certified copy of the order dated 2.12.2014; needful having been done only on 17.1.2015, during apart of the said period, the courts were closed for winter vacation. The certified copy was collected and made available on 27.1.2015 and thereafter, the counsel after several requests from the petitioner has filed the review application on 5.2.2015.

7. In my opinion, the petitioner has shown 'sufficient cause' for condonation of delay.

8. It is essentially the averment of the petitioner that the last order dated 2.12.2014 suffers from an error apparent on the face of the record. It is, accordingly, appropriate that the petitioner may pursue his review petition before the trial court.

9. In view of my findings recorded above, namely, that 'sufficient cause' is shown the application of the petitioner under Section 5 of the Limitation Act is allowed. I set aside the order dated 26.5.2016 dismissing the said application. The matter is remanded back directing the trial court to consider the review petition filed by the petitioner as per law.

10. The petition stands disposed of as above.

**JAYANT NATH, J.**

**SEPTEMBER 07, 2016**  
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