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

+ CM(M) 806/2016

YOGESH KUMAR JAIN & ANR Petitioners
Through Mr.Sanjiv Joshi, Advocate
versus

BRIJ MOHAN AGGARWAL Respondent
Through None.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **22.08.2016**

CM No. 30376/2016 (*exemption*)

Allowed subject to all just exceptions.

CM(M) 806/2016 & CM No. 30375/2016 (*stay*)

1. By the present petition, the petitioners seek to impugn the order dated 23.07.2016 by which the appeal filed by the petitioners under Rule 4 Chapter-II, Delhi High Court (Original Side) Rules, 1967 against the order of the Joint Registrar dated 23.02.2016 was dismissed.
2. The suit was filed by the respondent on 14.01.2013 before this court and on account of some objections, the plaint was returned. The plaint has been filed on 20.01.2015, i.e. after a delay of 730 days. The Joint Registrar (Original) of this court condoned the delay of 730 days in re-filing of the suit vide order dated 23.02.2015.
3. Against the said order of the Joint Registrar (Original) dated 23.02.2015, the petitioners filed an appeal. In the meantime, the suit was transferred to the District Judge.
4. By the impugned order dated 23.07.2016 the trial court disposed of the appeal noting that there is no error apparent on the face of the order

dated 23.02.2016.

5. The learned counsel appearing for the petitioners has argued that the application seeking condonation of delay of 730 days is totally vague and the only ground stated is that the original court fees papers were misplaced by the respondent. Subsequently, the application claims that the court fees papers were found when searching for some other papers and hence, the same has been re-filed.

6. It may be noted that the admitted fact is that the original court fees papers were purchased prior to the filing of the suit. In these facts, the trial court exercised its jurisdiction to condone the delay. In my opinion, there are no grounds to interfere with the impugned order.

7. A Division Bench of this Court in ***S.R. Kulkarni v. B. Birla VXL Limited, 1998(V) AD (Delhi) 634***, has held that application for condonation of delay in re-filing the documents/petition has to be dealt with in more liberal manner and not as per the strict requirements of Section 5 of the Limitation Act.

8. There is no merit in the petition and is dismissed.

JAYANT NATH, J.

AUGUST 22, 2016/v