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

+ RSA 220/2015

DELHI DEVELOPMENT AUTHORITY Appellant
Through: Mr. Ajay Verma, Sr. Standing
Counsel with Mr. Vaibhav Mishra,
Advocate.

versus

SURINDER KAUR Respondent
Through: Ms. Rama Parween Siddiqui,
Advocate.

CORAM:
HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER
% **08.07.2016**

1. This matter has been taken up today as 07.07.2016 was declared as a holiday on the occasion of Id-ul-Fitr vide Notification No. 1078/G-4/Genl./DHC dated 6.7.2016.

2. This Regular Second Appeal is filed against the judgment of the First Appellate Court dated 3.3.2015 by which the First Appellate Court has refused to condone the delay of around 800 days in filing the First Appeal, and has therefore dismissed the First Appeal as

barred by limitation.

3. The facts of the present case are very peculiar, and I say so peculiar because ultimately the issue will be with respect to the ownership and possession of a valuable property of around 400 sq. yards at Karkardooma, Delhi, and which on a conservative valuation today will be valued around the region of Rs.20 crores.

4. A reading of the judgment of the Trial Court shows that the suit was decided without any evidence being led by the appellant/defendant and which was because on the earlier dates which were fixed prior to the sole date given to the defendant for leading of evidence being 22.02.2011, the suit was being repeatedly adjourned at the request of the respondent/plaintiff, inasmuch as, a transfer petition was filed by the respondent/plaintiff to club the suit with a pending contempt petition and also a restoration application to restore the suit filed by the husband of the respondent/plaintiff with respect to the same property.

5. On the one hand, the issue is of condonation of delay of around 800 days but which aspect is on account of the factum of lack of *bona*

fide of the advocate of the appellant/defendant and which appellant/defendant has been defrauded by its advocate (who has since been removed from the panel), and which aspects are to be noted with the aspect of the delay being large number of around 800 days, but, I am happy to note that counsel for the parties agree and accordingly this appeal is allowed with the following consent order:-

- (i) The impugned judgments of the First Appellate Court dated 3.3.2015 and that of the Trial Court dated 13.9.2011 are set aside but subject to payment of costs of Rs.1,10,000/- to the counsel for the respondent/plaintiff who is appearing in this Court. Costs will be paid positively within a period of six weeks from today, failing which thereafter the costs will stand increased to Rs.1,50,000/-.
- (ii) On costs being received by the respondent/plaintiff, the impugned judgments to the Trial Court dated 13.9.2011 and of the First Appellate Court dated 3.3.2015 would stand set aside and the suit would stand remitted for re-consideration on merits from the stage of the date of hearing which was fixed on 14.12.2010, i.e., the matter will be listed for appellant's/defendant's evidence by the Trial Court.
- (iii) Appellant/defendant will ensure that evidence of the appellant/defendant is completed in the trial Court positively by four hearings, failing which, the right to lead evidence will

stand closed.

6. In view of the above, the present appeal is allowed and the suit is remanded to the trial Court for being taken up from the stage of appellant's/defendant's evidence.

7. Parties to appear before the District Judge, Karkardooma Court (North-East), Delhi on 7th September, 2016.

8. A copy of this order be given dasti to counsel for the parties.

VALMIKI J. MEHTA, J

JULY 08, 2016

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