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

+ **FAO(OS) 335/2015**

KEWAL KISHORE

..... Appellant

Represented by: Mr.Aditya, Advocate with Ms.Mehak
Nakra, Advocate

versus

ASHOK BISWAL & ANR

..... Respondents

Represented by: Mr.A.K.Thakur, Advocate for R-1

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

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10.02.2016

1. Having heard learned counsel for the parties and having perused the record of the suit we find utter callousness by the counsel for the defendants in not guiding the defendants that a written statement needs to be filed within the time prescribed by law.

2. Vide impugned order dated April 20, 2015 two applications, one each filed by defendant No.1 and defendant No.2, seeking delay to be condoned in filing the written statements have been allowed and the written statements have been taken on record.

3. The learned Single Judge has noted that there was a delay of 14 months. The plaintiff has been recompensed with cost in sum of ₹15,000/- as a condition to be paid by each defendant. In other words the plaintiff gets

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₹30,000/- as recompense.

4. We would simply highlight that the suit seeking specific performance of the agreement to sell dated August 02, 2006. The suit was instituted in May, 2014.

5. If the written statements are not permitted to be brought on record very serious harm could be caused to the defendants in the context of not only the law of limitation but even a reference to the value of the subject property increasing terminally between the year 2000 and the year 2008.

6. We additionally note that a substantial payment ostensibly paid is in cash as pleaded in the plaint. The figure is ₹25 lakhs.

7. This additionally weighs with us to hold that in the facts of the instant case the cause of justice would be subserved by taking the written statements on record.

8. The appeal is dismissed.

9. No costs.

PRADEEP NANDRAJOG, J.

MUKTA GUPTA, J.

FEBRUARY 10, 2016

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