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

+ **FAO(OS) 374/2015**

SANTOSH YADAV

..... Appellant

Represented by: Ms.Risha Mittal, Advocate

versus

JASWANT SINGH & ORS

.... Respondents

Represented by: Mr.Vikas Goyal, Advocate for
LRs of R-1, 2, 4 & 5.

Ms.Ankita Mahajan, Advocate
for R-3

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

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29.01.2016

CM No.12412/2015

Allowed subject to just exceptions.

CM No.12411/2015

For the reasons stated in the application, 49 days delay in filing the appeal is condoned.

The application is disposed of.

FAO(OS) 374/2015

1. Limited grievance of the appellant is to the quantum of costs imposed upon the appellant while allowing application seeking amendment of the plaint. Costs imposed is in sum of ₹1,50,000/-.

2. The appellant is litigating with her brothers, one of whom is dead and, therefore, his legal heirs.
3. She litigates on the plea that the suit properties were owned by their father Late Sh.Raj Singh Yadav who died intestate. She pleads that the mother of the parties has also died. The amendment to the plaint sought was after about 3½ years of the suit being filed. Issues have been settled by said date. Commencement of recording of evidence has yet to be done. Under the circumstances we are of the opinion that costs in sum of ₹1,50,000/- imposed upon the appellant is excessive. If the cost is allowed to stay the appellant would be deprived the benefit of the amendment for the reason condition for amended plaint to be taken on record is payment of costs.
4. We dispose of the appeal reducing the costs to ₹25,000/-.
5. The amendment allowed by the learned Single Judge would be upon appellant paying to the defendant costs in the sum of ₹25,000/- within four weeks from today.
6. There shall be no costs in the appeal.

PRADEEP NANDRAJOG, J.

MUKTA GUPTA, J.

JANUARY 29, 2016
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