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

+ **FAO(OS) 453/2015**

UNION OF INDIA & ORS

..... Appellant

Represented by: Ms.Suparna Srivastava,
Ms.Manu Dev Sharma, Advs.

versus

JAGAT SINGH

..... Respondent

Represented by: Ms.E.Dathaya, Adv.

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

15.02.2016

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CM 15071/2015

For the reasons stated in the application 145 days delay in filing the appeal is condoned.

FAO(OS) 453/2015

1. On February 10, 2015 IA No.25586/2014 filed by the appellant seeking rejection of the plaint was disposed of by the learned Single Judge by passing an order as under:-

“Learned counsel for the defendant stated that the averments made in the application may be considered at the time of framing of issues. With these directions application disposed of.”

2. Immediately thereafter issues were settled. They were only two in number. They read as under:-

“i. Whether the plaintiff is entitled to a decree of ₹1,05,08,500/- and if so at what rate of interest? (OPP)

ii. Relief.”

FAO(OS) 453/2015

page 1 of 2

3. We are a little surprised for the reason on the same day disposing of IA No.25586/2014 the learned Single Judge has recorded that the issue of maintainability of the suit would be considered at the time of settlement of issues. Disposing of IA No.25586/2014 the learned Single Judge proceeded to settle the issue but did not settle the issue concerning the pleas taken in IA No.25586/2014.

4. These pleas we find have also been taken in the written statement.

5. The appeal is disposed of settling the following issue as issue No.1A:-
“Whether the plaintiff is estopped from claiming the suit amount in view of the orders dated July 13, 2012 and April 12, 2013 passed in W.P.(C) No.3252/2012? (OPD)”

6. No cost.

7. Dasti.

CMs 15070/2015 & 29999/2015 (stay)

Applications are dismissed as infructuous.

PRADEEP NANDRAJOG, J.

MUKTA GUPTA, J.

FEBRUARY 15, 2016

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