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

+ RFA 630/2015, CM 20968/2015 & CM 27982/2016

SARABJEET SINGH

..... Appellant

Through: Mr Peeyoosh Kalra, Advocate.

versus

THE POST MASTER & ORS

..... Respondents

Through: Mr Ruchir Mishra, Mr Mukesh Kr.
Tiwari and Mr Amit Dogra, Advocates
for R-1 & R-2.
Ms Sonia Malhotra, Advocate for R-3.

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

ORDER

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10.08.2016

The present appeal under Section 96 read with Order 41 of the Code of Civil Procedure, 1908 (hereinafter referred to as the 'Code') assails the order dated 28.08.2015 in Civil Suit No.142/2013 whereby the learned trial court rejected the plaint in view of the mandate of the provisions of Order 7 Rule 11(c) on account of non-payment of requisite court fee.

It is an admitted position that the subject suit has not been disposed of on the merits. It is also an admitted position that subsequent to the passing of the impugned order the requisite court fee in the amount of Rs.12,110/- has been deposited before the trial court.

Counsel appearing on behalf of the appellant as well as counsel appearing on behalf of the respondent, on instructions, state that in view of the foregoing they would have no objection if the subject suit is restored to the file of the trial court for a decision on the merits in accordance with law.

In view of the above, since the impugned order rejected the subject suit under Order 7 Rule 11(c) of the Code and not on the merits thereof, in my view,

it is a fit case for remand of the proceedings to the trial court.

Consequently, the present appeal is allowed. The impugned order dated 28.08.2015 is set aside. The Civil Suit No.142/2013 is restored to the file of the Civil Judge-04, Central, Tis Hazari Courts, Delhi, for disposal in accordance with law.

The interim order dated 28.09.2015 restraining the Postmaster/respondent No.1 herein from disbursing the amount credited to the account described as: SCS Account No.46000190, is made absolute during the pendency of the subject suit before the trial court.

List this matter before the concerned trial court, in the first instance, for appearance of the parties on 17.08.2016.

A copy of this order be sent to the District Judge (Central), Tis Hazari Courts, Delhi, for information and compliance.

The appeal is disposed of accordingly. All pending applications also stand disposed of.

SIDDHARTH MRIDUL, J

AUGUST 10, 2016

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