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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ CM(M) 959/2015 & C.M. No.22936/2015  
M/S K D P BUILDWELL PVT LTD & ANR

..... Petitioners

Through Ms. N. Berry and Mr. Jabar Singh,  
Adv.

versus

REKHA AGGARWAL

..... Respondent

Through Mr. Pankaj Kumar, Adv.

**CORAM:**

**HON'BLE MS. JUSTICE INDERMEET KAUR**

**ORDER**

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**17.02.2016**

Order impugned before this Court is the order dated 29.06.2015 vide which the application filed by the defendant seeking set aside of the ex-parte order dated 02.04.2013 (under Order 9 Rule 7 of the CPC) was dismissed. The averments contained in the aforementioned application have been perused. Learned counsel for the petitioner submits that the defendant company became aware of the proceedings only on 30.05.2014; they were never served before that. Process Server had come to the registered office of Company only on 30.05.2014 and forthwith thereafter an application under Order 9 Rule 7 of the CPC was filed on 08.09.2014. The Trial Court had noted that one Mr. Ashutosh had received the summons on behalf of the company. This position is disputed by the learned counsel for the petitioner; she submits that Ashutosh is not their employee.

Be that as it may, a valuable right would be lost to the petitioner

in case he is not allowed to plead his defence. The truth should be unearthed.

The impugned order dated 29.06.2015 is accordingly set aside. Written statement now be filed by the petitioner within two weeks with advance copy to the learned counsel for the plaintiff who may file replication before the next date. The Trial Court shall thereafter proceed to decide the case on its merits. This order is passed subject to payment of costs of Rs.20,000/-.

With these directions, petition disposed of.

**INDERMEET KAUR, J**

**FEBRUARY 17, 2016**

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