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

+ **FAO(OS) 630/2015**

MULAKH RAJ JAIN

..... Appellant

Represented by: Mr.Alok Bhachawat, Advocate with
Ms.Swati Ghildiyar, Advocate

versus

MAHAVIR VISHWA VIDYAPEETH

PRABANDH SAMITI & ORS

..... Respondents

Represented by: None

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

% **17.02.2016**

1. We find no merit in the appeal which lays a challenge to an order dated September 04, 2015 dismissing Chamber Appeal filed by the appellant against the order dated January 09, 2015 passed by the learned Joint Registrar closing right of the appellant to file the written statement. The Chamber Appeal was filed with a delay of 568 days.

2. The record of the suit would show that the appellant had filed a caveat and had entered appearance when the suit was listed for admission on August 12, 2013, on which date summons were accepted by counsel for the appellant. As per the Code of Civil Procedure written statement ought to have been filed within 30 days and as per Rule 1 of Order 8 of the Code of Civil Procedure, upon showing sufficient cause, within further 60 days. Beyond the period of 90 days an exceptional cause had to be shown. No

written statement being filed till January 09, 2014 and no application filed for extension of time to file the written statement, on January 09, 2014 the learned Joint Registrar closed the right of the appellant to file the written statement, against which Chamber Appeal was filed with a delay of 568 days.

3. The only point urged is that the parties were trying to settle the dispute is neither here nor there because as pleaded in the appeal the settlement failed on April 27, 2015 and in spite thereof the Chamber Appeal was filed on August 17, 2015. Besides, when the learned Joint Registrar had passed the order on January 09, 2014, pending settlement talks, a written statement ought to have been filed immediately thereafter with an application to extend the time to file the same and with a prayer that the written statement be taken on record.

4. The appeal is dismissed.

5. No costs.

PRADEEP NANDRAJOG, J.

MUKTA GUPTA, J.

FEBRUARY 17, 2016

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