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

+ **FAO(OS) 623/2015**

VIPEN KUMAR PARWANDA & ANR Appellants

Represented by: **Mr.Manish Makhija, Advocate**

versus

GUNJAN KUMAR Respondent

Represented by: **Mr.M.Dutta, Advocate with
Mr.D.K.Singh, Advocate**

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

% **22.02.2016**

1. We have perused the record of the suit and find that when the appellants were served with summons in the suit, both of them were lodged in Central Jail Tihar. The record shows that the appellants were served in the jail on February 09, 2011. The two were thereafter admitted to bail, on a date which is not emerging with clarity. Not having the requisite means the appellants sought legal aid and one Reena Jain Malhotra was assigned the brief to defend the appellants in the suit filed by the respondent. Learned counsel drafted a written statement and filed the same on April 02, 2013, the date by which the written statement had to be filed as per the order dated March 20, 2013. But unfortunately for the appellant, the counsel was negligent and did not obtain the signatures of the appellants on the written statement nor on the verification. The counsel obtained affidavits of the petitioners in support of the written statement and filed the same belatedly

on July 07, 2015.

2. It may be true that in the meanwhile the suit proceeded, but the Court should have been careful and not ignored that a written statement was filed by the appellant on April 02, 2013 but sans their signatures, a default directly attributable to the counsel. The unsigned written statements are lying in the suit files.

3. We note that the plaintiff is claiming possession of the suit property on the strength of a purported sale-deed executed by the appellants which records receipt of sale consideration in cash. The appellant deny having received any sale consideration.

4. The impugned order dated September 14, 2015 is accordingly set aside. The written statements filed by the appellants which are lying in the suit record but sans their signatures and lack of verification is permitted to be cured by directing that the appellants shall appear on February 29, 2016 before the learned Single Judge, the date listed in the suit, and the learned Single Judge would permit the appellants to cure the defect by obtaining their signatures on the written statement as also in the verification.

5. No costs.

CM No.26289/2015

Dismissed as infructuous.

PRADEEP NANDRAJOG, J.

MUKTA GUPTA, J.

FEBRUARY 22, 2016

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