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

+ CM(M) 207/2017

KAPIL VIHAR WELFARE ASSOCIATION & ORS Petitioners
Through: Mr.Anul Kumar Upadhyay,
Advocate.

versus

DELHI UNION COOPERATIVE
HOUSE BUILDING SOCIETY Respondent
Through: Mr.Sumit Tomar and Mr.R.S.Tomar,
Advocates.

CORAM:
HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER
26.05.2017

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CM(M) 207/2017

1. The petitioners are challenging the order dated 19th December, 2016 passed by learned Appellate Court whereby MCA No.06/2016 filed by the petitioners herein assailing the order dated 23th May, 2016 passed in Civil Suit No.61528/16, has been dismissed being barred by limitation.
2. Learned counsel for the petitioners submits that vide order impugned the learned Appellate Court, while dismissing the appeal on technical ground i.e. being barred by limitation, has also imposed exemplary cost of Rs.20,000/-. Learned counsel for the petitioners submits that his prayer is limited to the extent that delay in filing the MCA No.06/2016 be condoned and an opportunity may be granted to the petitioners to be heard on merits.

3. Learned counsel for the respondent submits that he has no objection if the prayer of the petitioners is allowed and appeal is directed to be heard on merits, subject to such conditions as deemed fit by this Court.
4. In view of the above submissions made on behalf of the parties, the impugned order dated 19th December, 2016 to the extent of dismissing the appeal being barred by limitation, is set aside.
5. The delay in filing the appeal bearing MCA No.6/2016 is condoned subject to payment of cost of Rs.10,000/- to learned counsel for the respondent.
6. It is made clear that the above cost of Rs.10,000/- is in addition to the cost of Rs.20,000/- imposed by the learned Appellate Court vide order dated 19th December, 2016.
5. The appeal is restored to its original number. Only one opportunity is granted to the petitioners to pay the cost of Rs.30,000/- so that after condonation of delay, the appeal can be heard on merits by the Appellate Court.
7. Parties are directed to appear before the District & Sessions Judge, North West District, Rohini Court, Delhi on 12th July, 2017, who may assign the appeal to the Court having jurisdiction to try and entertain the appeal.
8. The cost of Rs.30,000/- shall be paid by the petitioners to the learned Counsel for the respondent on or before 12th July, 2017.
9. The petition is disposed of in above terms.
10. It is made clear to the learned counsel for the petitioner that if the cost is not paid on or before 12th July, 2017, this petition shall stand dismissed
11. A copy of this order be sent to the Court of learned District Judge and Sessions Judge (North West District) for information and compliance and be

also given dasti to learned counsel for the parties under the signature of Court Master, as prayed.

CM No.6834/2017

Dismissed as infructuous.

PRATIBHA RANI, J.

MAY 26, 2017/‘st’