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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ LPA 247/2017

N N BAJAJ Appellant
Through: Ms. Sania Sharma, Advocate

Versus

UNION OF INDIA & ORS. Respondents
Through: Ms. Saroj Bidawat, Advocate for
respondent No.1-UI

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE SUNIL GAUR

% **ORDER**
19.09.2017

The grievance of appellant herein is that the learned Single Judge refused to condone the delay and restore the writ petition, which was dismissed on 25th October, 2013. Restoration of the writ petition is sought on the ground that the appellant could not contact his advocate, which led to dismissal of the writ petition in default. The application for restoration also stated that the counsel, who had filed the case i.e. Mr. K.L. Budhiraja, Advocate, had expired and that appellant had no information of it. The learned Single Judge was of the opinion that the subsequent illness of appellant and the fact that he was an educated man, who knew his options, precluded him from the relief of restoration.

This Court is conscious of the fact that the writ petition was filed in

the year 1999 and was admitted for hearing in the year 2004. When the matter was called out on regular board after 14 years, there was default which led to its dismissal. Whilst the explanation for the delay made have been in general not convincing, the Court cannot be oblivious of the fact that when an aggrieved party entrusts his or her case to a Counsel, who subsequently dies, and this crucial fact is unknown to him/her, he or she cannot be entirely blamed. The Court's obligation to deal with the matter on the merits too cannot be undermined given that the writ petition was pending for over 14 years.

Having regard to these circumstances, we are of the opinion that interest of justice lie in restoring the writ petition to the original position. The impugned order is hereby set aside. The order dated 25th October, 2013, dismissing the writ petition for non-prosecution is too set aside.

Learned Counsel for the parties shall appear before the Single Judge as per roster allocation on 11th October, 2017, who shall then proceed to decide the writ petition on merits.

The appeal is allowed.

S. RAVINDRA BHAT, J

SUNIL GAUR, J

SEPTEMBER 19, 2017

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