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

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Date of Decision: 10th February, 2017

+ **FAO 373/2016 & CMs 44752-44753/2016**

ROHIT KHULLAR

..... Appellant

Through: **Mr. V. Shukla, Ms. Aparna,**
Advocates.

versus

STATE & ANR.

..... Respondents

Through: **Mr. P.R. Chopra, Advocate for**
respondent no.2.

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The appellant has challenged the order of the Trial Court whereby his petition for succession certificate has been dismissed as being barred by limitation.

2. Learned counsel for the appellant submits that the cause of action for seeking the letters of administration arose in last week of July, 2011 when the appellant discovered the share certificates in question from the records of the deceased and the petition was filed within three years thereof on 20th August, 2011. It is submitted that this fact could not be placed on record before the Trial Court but the appellant has placed the same on record before this Court by CM 44752/2016. Reliance is made on ***Kunvarjeet Singh Khandpur v. Kirandeep Kaur***, IV (2008) SLT 58.

3. This Court is satisfied with the explanation given by the appellant in CM 44752/2016 that the petition was filed within three years of discovery of share certificates. The appellant's petition is held to be within time.
4. The appeal is allowed, impugned order dated 15th March, 2016 is set aside and the matter is remanded back to the Trial Court.
5. The appellant is permitted to amend the petition to incorporate the averments made in CM 44752/2016 with respect to the appellant's claim of discovering the share certificates in July, 2011.
6. The parties shall appear before the Trial Court on 21st March, 2017.
7. The Trial Court shall endeavour to expedite the hearing of this matter and decide the same within a period of four months from 21st March, 2017
8. The Trial Court record be returned back forthwith.
9. The pending applications are disposed of.
10. Copy of this judgment be given *dasti* to learned counsels for the parties under signature of Court Master.

FEBRUARY 10, 2017
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J.R. MIDHA, J.