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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 665/2017 & CM No.22838/2017 (for condonation of 3 days
delay in re-filing the petition)
VED PRAKASH AND ORS

..... Petitioners

Through: Ms. Sonam Anand, Adv.

Versus

LAKHMI CHAND (THROUGH HIS LRS) AND ORS

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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04.07.2017

CM No.22837/2017 (for exemption)

1. Allowed, subject to just exceptions.
2. The application is disposed of.

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3. This petition under Article 227 of the Constitution of India impugns the order dated 22nd September, 2014 of the Civil Judge-II/Central/Delhi of dismissal (on the ground of non-payment of costs earlier imposed) of an application filed by the petitioner for restoration of a suit as well as the order dated 8th August, 2016 of dismissal of a subsequent application for restoration of the earlier application for restoration of the suit.
4. An order of dismissal of an application under Order IX Rule 9 of the CPC is appealable under Order XLIII Rule 1(c) of the CPC.

5. For the reason of availability of alternative remedy of appeal, this petition under Article 227 of the Constitution of India, insofar as with respect to order dated 22nd September, 2014, is not maintainable.
6. Also, the challenge to the order dated 22nd September, 2014, now in the year 2017, is highly belated.
7. Similarly, the subsequent order dated 8th August, 2016 on an application for restoration of the earlier application would also not be challengeable under Article 227.
8. The counsel for the petitioner withdraws this petition with liberty to take appropriate remedy.
9. Dismissed as withdrawn with liberty aforesaid.

RAJIV SAHAI ENDLAW, J.

JULY 04, 2017

‘gsr’..

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