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

+ **FAO 463/2016**

THAKUR DASS KUMBNANI Appellant
Through: **Mr. Manish Sharma, Advocate**

versus

JAGDISH KUMAR KUMBNANI & ORS Respondents
Through: **Mr. Dinesh Parashar, Advocate**

CORAM:
HON'BLE MR. JUSTICE J.R. MIDHA

% **ORDER**
14.03.2017

1. The appellant has challenged the order dated 07th February, 2013 whereby the suit was dismissed in default. The appellant filed an application for restoration of the suit which was dismissed by the Trial Court on 18th April, 2013.
2. The appellant challenged the order dated 07th February, 2013 in FAO 162/2016. On 25th July, 2016, the appellant sought permission to withdraw the appeal with liberty to challenge the order dated 18th April, 2013, whereupon this Court dismissed the appeal with liberty as prayed for. This Court, however, directed that the appellant would be entitled to the benefit of Section 14 of the Limitation Act as and when the fresh appeal is filed.
3. Learned counsel for the respondents submits that there is a huge delay in filing this appeal which has not been sufficiently explained. Learned counsel for the appellant submits that vide order dated 25th July, 2016, this Court had already held that the appellant would be entitled to the benefit of Section 14 of the Limitation Act. As such, there is no delay in filing this appeal.

4. This Court is satisfied that the learned Trial Court erred in not restoring the appellant's suit which was dismissed in default on 07th February, 2013. With respect to the delay in preferring the appeal, this Court is satisfied that the appellant is entitled to benefit of Section 14 of the Limitation Act.

5. The appeal is allowed and the appellant's suit is restored to its original number.

6. The parties shall appear before the learned Trial Court on 25th April, 2017 at 02:30 p.m. Learned counsels for both the parties have taken note of the date fixed before the Trial Court and they waive off issuance of fresh notice.

7. Copy of this order be given dasti to counsels for the parties under signatures of the Court Master.

J.R. MIDHA, J.

MARCH 14, 2017

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