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

\+ RFA 438/2015

DALJEET SINGH ..... Appellant
Through: Ms. Sharda Garg and Mr. Pinaki Addy, Advocates with appellant in person.

versus

KRISHNA KUMARI ..... Respondent
Through: Mr. Ruchir Batra, Advocate

CORAM:
HON'BLE MS. JUSTICE HIMA KOHLI

O R D E R

% 13.02.2017

CM APPL. 45787/2016 (by the respondent for directions)

1. The present application has been filed by the respondent/plaintiff praying *inter alia* for dismissing the appeal preferred by the appellant/defendant on the ground that he has failed to pay the costs of Rs.10,000/- imposed on him vide order dated 01.03.2016.

2. On 01.03.2016, an application filed by the appellant for seeking condonation of delay in filing the appeal was allowed, subject to the appellant paying costs of Rs.10,000/- to the counsel for the respondent. The said costs have not been tendered to the respondent till date.

3. The matter has been passed over thrice at the request of the appellant, who had appeared in person, to await the presence of the counsel for the appellant. On the third call, counsel for the appellant appears and states that

she had intimated her client about the order dated 01.03.2016, on the same date but he had failed to contact her or send the costs for payment to the other side.

4. The appellant has no explanation to offer for non-compliance of the order dated 01.03.2016 except for stating that he had remained unwell for the past six months. Even if the said explanation is accepted, this does not explain the failure on his part to comply with the order dated 01.03.2016, from March to August, 2016. Apparently, the appellant is offering flimsy excuses, particularly in the light of the submission made by counsel for the appellant that she had exercised due diligence and informed her client about the costs imposed in terms of the order dated 01.03.2017.

5. Even today, the appellant has not brought the costs and seeks further time to make the payment to the other side. The delay in filing the appeal was condoned, subject to the appellant paying costs of Rs.10,000/-. The appellant having miserably failed to pay the costs for almost one year, this Court has no option but to dismiss the appeal.

6. Ordered accordingly. The appeal is dismissed alongwith the pending application.

HIMA KOHLI, J

FEBRUARY 13, 2017
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