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

+ CM(M) 74/2017

ANIL JAIN & ANR

..... Petitioner

Through

Mr.Diwan Singh Chauhan, Advocate

versus

KANTA JAIN

..... Respondent

Through

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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23.01.2017

CM No.2500-2501/2017

Exemption allowed, subject to all just exceptions.

CM(M) 74/2017 & cm nO.2499/2017

1. By the present petition under Article 227 of the Constitution of India the petitioner seeks to impugn the order dated 20.9.2016 by which his application under Order VIII Rule 1A CPC to condone the delay in filing of the written statement was dismissed.
2. The petitioner was served on 22.1.2016. He moved an application for condonation of delay in filing of the written statement on 1.6.2016. There is a delay of 41 days beyond 90 days in filing of the written statement. As per the application filed by the petitioner it is stated that the counsel who was contacted to pursue the matter did not appear before the court on account of untimely demise of his close relative. Thereafter it is urged that copies of the plaint and documents served were not legible. Based on this the application had been filed.
3. Though the trial court did not accept the contention of the petitioner,

however, keeping in view the fact that the relative of the advocate of the petitioner had expired, in my opinion, it would be a sufficient cause to condone the delay.

4. Advance copy of the petition has been sent to the respondent but none is present.

5. Petition is allowed and the written statement already filed may be taken on record subject to payment of costs of Rs.5,000/-. All pending applications also stand disposed of.

JAYANT NATH, J

JANUARY 23, 2017

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