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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 832/2018 & CM APPL. 29302/2018**

VINOD KUMAR

..... Petitioner

Through: Mr. Aman Singh, Advocate.

versus

RANJIT SINGH

..... Respondent

Through:

+ And
CM(M) 835/2018 & CM APPL. 29313/2018

VINOD KUMAR

..... Petitioner

Through: Mr. Aman Singh, Advocate.

Versus

RANJIT SINGH

..... Respondent

Through:

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **09.10.2018**

CM APPL. 29300 & 29301/2018 (Ex.)

CM APPL. 29311 & 29312/2018 (Ex.)

Exemptions allowed subject to all just exceptions.

The applications stand disposed of.

CM(M) 832/2018 & CM(M) 835/2018

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CM(M) 832/2018 & CM APPL. 29302/2018

CM(M) 835/2018 & CM APPL. 29313/2018

It is submitted on behalf of the petitioner that the petitions be treated as FAOs in view of the prayers made in the petition assailing the impugned orders dated 03.02.2018 in Eviction Petition No.39/14 and Eviction Petition No.38/14 of the Court of the learned ARC/ACJ/CCJ, New Delhi District, Patial House Courts, Delhi.

Vide the present appeals, the appellant assails the impugned order dated 03.02.2018 whereby the applications under Section 5 & 14 of the Limitation Act, 1963 were dismissed and as a consequence thereof, an application under Order IX Rule 13 of the CPC not having been filed within the period of limitation was consequently dismissed. The applications seeking stay of the operation of the execution of the judgments dated 16.07.2015 in the cases were also dismissed.

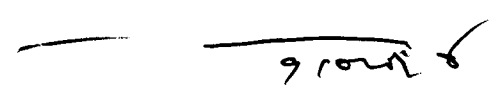
A bare perusal of the impugned orders itself reflect the lack of *bona fides* of the petitioner in filing the applications seeking condonation of delay inasmuch as the proceedings reflect that the appellant became aware of the *ex parte* judgment dated 16.07.2015 in the month of November, 2015, whereafter objections were filed and the applicant i.e. the appellant herein challenged the locus of the petitioner of the case and also made assertions to the effect that the summons of the petition had not been served and *inter alia* sought that the *ex parte* judgment be set aside inasmuch as the process server had acted at the instance of the petitioner which prayer was dismissed vide an order dated 07.12.2015, no appeal was filed against the same by

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the present appellant subsequent to filing of objections which were dismissed and appeal was filed by the present appellant which was also withdrawn. Thereafter, the appellant moved an application for restoration of that appeal which was dismissed in default and the application for restoration of the appeal was dismissed by the Court of the District & Sessions Judge, New Delhi vide order dated 19.12.2017. The petitioner filed a writ petition in this Court and withdrew it on 21.12.2017 and thereafter moved an application under Order IX Rule 13 of the CPC and an application under Sections 5 & 14 of the Limitation Act, 1963.

As rightly observed by the learned Trial Court, the petitioner i.e. the appellant herein had explored all legal remedies available and only after failing in all his endeavours, to keep the issue alive, filed the application seeking condonation of delay of 2- 2 ½ years between the date of judgment and filing of the application.

Thus, there is no merit in the prayer made by the petitioner and thus the present appeals and all accompanying applications are dismissed.


ANU MALHOTRA, J

OCTOBER 09, 2018/NC