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

+ **CS (OS) 2937/2014**

LIC HOUSING FINANCE LIMITED Plaintiff
Through: Mr. Pankul Nagpal, Advocate.
(M:9810991239)
versus

MAHESH MITTAL & ORS. Defendants
Through: Mr. Pashupati Nath Razdan,
Advocate for D-1 7 2.
(M:9818570044)

CORAM:
JUSTICE PRATHIBA M. SINGH

ORDER
% **05.09.2018**

I.A. 10623/2017 in CS (OS) 2937/2014

Learned counsel for the Defendants submits that the limitation for filing of the application under Order XXXVII Rule 4 Civil Procedure Code, 1908 is three years. The reasoning, given for seeking the setting aside of the ex-parte decree, are that the counsel, who was engaged to file the memo of appearance in the summary suit failed to appear on the said date. It is, however, admitted that the copy of the memo of appearance was duly served upon the learned counsel for Plaintiff. This fact appears to have not been come to the notice of the Court at the time of passing of the ex-parte decree. According to him, Defendants were awaiting for filing of the summons for judgment and it was not their fault as the counsel could not appear on the said date.

Moreover, learned counsel for the Plaintiff submits that all similar suits have been converted into ordinary suits. Under these circumstances, the

application is allowed subject to payment of Rs.5,000/- as costs to be paid to the Plaintiff. Learned counsel for the Plaintiff submits that the suit may be considered an ordinary suit. The suit being for a sum of Rs.25,69,399/-, the suit is transferred to the District Judge, New Delhi District, Patiala House, New Delhi for being marked to the appropriate court.

List before the appropriate DJ/ADJ on 8th October, 2018.

PRATHIBA M. SINGH, J.

SEPTEMBER 05, 2018/dk