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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ RSA 146/2017 & CM No.19815/2017 (for condonation of 237 days
delay in filing the appeal).
NAVEEN JAIN & ANR Appellants

Through: None.

versus

SANTOSH GARG Respondent

Through: Mr. V.P. Garg for respondent.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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06.08.2018

1. This order is in continuation of the earlier order dated 31st July, 2018.
2. None appears for the appellants.
3. Mr. V.P. Garg, Advocate for the respondent, who states that he is also the husband of the respondent, states that he has verified the record of the First Appellate Court and what the counsel for the appellants had represented before this Court on 31st July, 2018 has been found to be correct. He further states that the respondent has no objection to this Second Appeal being allowed and to the First Appeal preferred by the appellants being directed to be heard on merits. He however states that the appellants have not paid the costs of Rs.10,000/- imposed on the appellants at the time of dismissal of their application for review and a direction to that effect may be given.
4. As already noted in the order dated 31st July, 2018, there is a delay of 237 days in preferring this Second Appeal. However, since it has been found that the First Appellate Court dismissed the appeal on a wrong application of law of limitation, subject to the appellants paying costs of Rs.5,000/- to the

counsel for the respondent, the said delay of 237 days in preferring this appeal is condoned.

5. C.M. No.19815/2017 is disposed of.

6. The appeal is allowed. The impugned order dismissing as barred by time, the First Appeal preferred by the appellant is set aside.

7. The parties to appear before the First Appellate Court i.e. the Court of Additional District Judge–II (North-West), Rohini, Delhi on 23rd August, 2018.

8. The First Appellate Court is directed to hear the parties and dispose of on merits the First Appeal preferred by the appellants.

9. The appellants however, before proceeding with the appeal shall pay consolidated costs as aforesaid of Rs.15,000/- to the respondent.

10. The appeal is disposed of.

11. A copy of the order dated 31st July, 2018 as well as copy of this order be sent to the Additional District Judge-II (North-West), Rohini, Delhi who had pronounced the orders dated 20th May, 2016 and 14th December, 2016 and the said learned Additional District Judge is requested to be careful in future.

12. A copy of the said orders be also forwarded to the Committee of the Inspecting Judges of the learned Additional District Judge.

13. The Suit Court record and the First Appellate Court record, if requisitioned, be returned forthwith.

RAJIV SAHAI ENDLAW, J

AUGUST 06, 2018

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RSA 146/2017

page 2 of 2