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

+ **MAT.APP.(F.C.) 172/2017**

DAWESH BISHNOI

..... Appellant

Through: Mr. Rishi Kapoor, Advocate

versus

MALINI BISHNOI

..... Respondent

Through: None

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

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22.05.2018

CM APPL.19835/2018 (Restoration) & CM APPL.19836/2018
(Condonation of Delay)

By way of the present applications, the applicant/appellant seeks condonation of delay of 62 days in filing the application seeking restoration of the appeal, as well as, restoration of the appeal itself, which came to be dismissed in default by this Court vide order dated 23.02.2018.

Learned counsel appearing on behalf of the applicant/appellant states that he seeks the above prayers with a view to praying for withdrawal of the appeal itself.

In this view of the matter, it is not considered necessary to issue notice to the non-applicant/respondent.

The application seeking condonation of delay is predicated on the assertion that owing to the inability of the learned counsel appearing on behalf of the applicant/appellant and his inadvertence, the application seeking restoration of the appeal was instituted belatedly. It is, therefore, urged that the consequence of the default of counsel ought not to be visited upon the litigant.

In view of the foregoing and in the interest of justice, the application is allowed. The delay of 62 days in filing the application seeking restoration of the appeal is condoned.

The application is disposed of accordingly.

The application seeking restoration of the appeal once again asseverates that it was on account of the inadvertence and unforeseen circumstances of the counsel in question that there was no appearance on behalf of the applicant/appellant, when the same came to be dismissed in default on 23.02.2018.

In view of the submission first made on behalf of counsel hereinabove, the application is allowed. The order dated 23.02.2018 is recalled. The accompanying appeal is restored to its original number.

The application is disposed of accordingly.

MAT.APP.(F.C.) 172/2017 & CM APPL.34968/2017 (Stay)

Learned counsel appearing on behalf of the appellant, as aforesaid, has instructions to withdraw this appeal.

The appeal is accordingly dismissed as withdrawn and disposed of.
The pending application also stands disposed of.

SIDDHARTH MRIDUL, J

DEEPA SHARMA, J

MAY 22, 2018

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