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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO(OS) 162/2018 & CM. Nos. 45750/2018 and 45751/2018**
DEEPAK BHANWANI & ANR

..... Appellant

Through: Ms. Kaadambari, Adv. with
Ms. Mansi Sinha, Adv.

versus

POOJA VERMA

..... Respondent

Through:

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER
% **31.10.2018**

CM. No. 45751/2018

Exemption allowed subject to all just exceptions.

Application stands disposed of.

CM. No. 45750/2018 (for condonation of delay of 8 days in re-filing the appeal)

For the reasons stated in the application, the delay of 8 days in re-filing the appeal is condoned. Application stands disposed of.

FAO(OS) 162/2018

The present appeal has been filed by the appellant challenging the order dated August 23, 2018 in IA No. 6526/2017 (u/O 7 Rule 11 CPC) of the learned Single Judge whereby the learned Single Judge has dismissed the

application with cost of Rs.25,000/- to be deposited with the Delhi High Court Advocates Welfare Association.

It is the submission of the learned counsel for the appellant that the application under Order 7 Rule 11 CPC incorporated many grounds including that the suit is not maintainable for lack of payment of appropriate Court fee, under valuation; barred by limitation and the Specific Relief Act and hence the learned Single Judge could not have dismissed the application merely on the ground that the issues have been framed. We are not impressed by the said submission made by the learned counsel for the appellant for the simple reason, when issues have been framed on the objections of the appellant, the same shall be decided by the Court below on the basis of the evidence adduced before it. Filing of an application, as held by the learned Single Judge was a dilatory tactics. The same was filed in the year 2017 in a suit filed in the year 2014 and issues framed on November 23, 2016.

At this stage, learned counsel for the appellant states that the cost of Rs.25,000/- imposed by the Court below be waived. Noting the said submission, we reduce the cost to Rs.10,000/- to be deposited with the Delhi High Court Advocates Welfare Association.

Upholding the order of the learned Single Judge, reducing the cost,
the appeal is disposed of.

CHIEF JUSTICE

V. KAMESWAR RAO, J

OCTOBER 31, 2018*/ak*