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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 1598/2018 CM APPL. 54397/2018 and 54632/2018
M/S DOLLY PRINTERS & ANR Petitioners
Through: Mr. Vijay Dutt, Advocate
versus
M/S ANEJA & SONS Respondents
Through:

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **21.12.2018**

CM No. 54632/2018 (Exemption)

This is an application filed on behalf of the petitioner for exemption from filing certified copies of the annexures.

Exemption allowed, subject to just exceptions.

CM(M) 1598/2018 and CM No. 54397/2018

Initial submissions have been made on behalf of the petitioner.

The petitioners, i.e., the judgment debtors in M.Ex. No. 05/16 pending before the learned Civil Judge-01 (West), assail the impugned order dated 28.9.2018 of the learned Civil Judge vide which the prayer made by the decree holder seeking restoration of the petition M.Ex. No. 05/16 and the delay in filing the same was condoned.

It has been submitted on behalf of the applicants/petitioners i.e., the Judgment debtors, that there has been a gross delay which ought not to have been condoned by the learned Trial Court and that there existed no sufficient cause for the condonation of delay in filing the application vide which the decree holder sought restoration of the petition nor did there exist any sufficient cause for the absence of the

decree holder in pursuing the execution petition.

On a perusal of the impugned order, it is brought forth that the decree holder has stated that the father of the decree holder being 87 years of age suffered from a heart attack and was bed ridden due to which reason the decree holder could not appear before the Court thus explaining the reason for the absence of the decree holder before the learned Executing Court.

It is submitted on behalf of the petitioner/defendant that there was no medical document that has been placed on the record before the learned Executing Court.

Nevertheless, a submission of the kind made by the decree holder, who was pursuing the execution petition, would not have been made in relation to the ailment of his father.

Another aspect brought forth through the impugned order is also to the effect that the time taken was also due to non-tracing of the address of the judgment debtors in as much as the judgment debtor had changed the address without giving any prior intimation of the same to the Court or to the decree holder.

A perusal of the impugned order thus indicates that there has been no unfair exercise of discretion and thus the Court does not consider it appropriate to allow the prayer made by the petitioner.

The petition and the accompanying applications are thus declined.

ANU MALHOTRA, J

DECEMBER 21, 2018/SV