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

+ RFA 69/2019 and C.M. Nos.3876/2019(stay) &
3877/2019(exemption)

BABU LAL

..... Appellant

Through: Ms. Saumya Tandon, Advocate (M.
No.9810907029).

versus

SHARP SIGHT CENTER

..... Respondent

Through

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

% **29.01.2019**

1. By the impugned judgment, trial court has rejected the plaint of the appellant/plaintiff as time barred. By the plaint, the appellant/plaintiff has sought the relief of damages against the defendant on the allegation that the respondent/defendant had damaged the left eye of the appellant/plaintiff during the operation done by the respondent/defendant on the left eye of the appellant/plaintiff on 19.4.2011. Trial court has held that suit filed on 16.2.2017 much beyond the period of three years of the alleged act of negligence on 19.4.2011 is barred by limitation.

2. Without going into this aspect in detail inasmuch as there are

also certain other averments made in paras 6 to 8 of the plaint, and since one of the issues which arises in this case is also that the appellant/plaintiff has also filed a similar complaint seeking damages before the competent consumer court under the Consumer Protection Act, 1986, therefore, while this appeal is disposed of as not pressed, it is observed that nothing contained in the impugned judgment will in any manner prejudice the appellant/plaintiff with respect to pursuing of his complaint filed under the Consumer Protection Act including seeking of condonation of delay inasmuch as whereas with respect to a suit filed there cannot be condonation of delay but with respect to the complaint filed before the consumer forum there can be condonation of delay in filing the consumer complaint.

3. The appeal is accordingly disposed of in terms of aforesaid observations.

VALMIKI J. MEHTA, J

JANUARY 29, 2019

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