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

+ RFA 12/2020

BIRMANAND MOHAN

..... Appellant

Through : Mr.Kriti Uppal, Sr Advocate with
Mr.Sanjeet K.Trivedi, Mr.Aditya
Awasthi, and Mr.Aditya Raj,
Advocates.

versus

SAPNA SURI & ORS

..... Respondents

Through : Mr.Giriraj Subramaniam,
Mr.Simarpal Singh Sawhney and
Ms.Aiswarya Murali, Advocates for
R5.

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

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10.01.2020

CM APPL No.704/2020

For the reasons mentioned in the application, the delay of 88 days in refiling the appeal stands condoned.

The application stands disposed of.

CM APPL Nos.702-03/2020

Exemption allowed, subject to all just exceptions.

The application(s) stand disposed of.

RFA 12/2020 & CM APPL No.706/2020, 705/2020

This appeal is against the order dated 15.07.2019 passed by the learned Trial Court whereby the suit filed for declaration, injunction, possession filed by respondent/plaintiff was dismissed on an application under order VII Rule 11 read with Order XII Rule 6 CPC moved by the respondent No.5 herein. The said application was allowed and the plaint was rejected and the suit was dismissed.

It is the submission of the learned counsel for the respondent No.5 that though the suit was dismissed, but the appellant herein filed the counter claim, which is still surviving. The learned senior counsel for the appellant says the impugned order does not note this fact.

In the circumstances, so explained and as submitted by the learned counsel for respondent No.5, the counter claim filed by appellant is stated to be pending, be got registered as an independent suit. The counter claimant is at liberty to file for amendment, if necessitated, in accordance with law.

In view of above, the appeal has become infructuous and accordingly stands disposed of.

Both the learned counsels says parties are senior citizens. In view of above, the learned Trial Court to make endeavour to expedite the disposal of counter claim, if any. The pending applications also stands disposed of. No order as to costs. Copy of this order be given *dasti* under signature of the Court Master.

YOGESH KHANNA, J.

JANUARY 10, 2020

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