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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of decision: 12.03.2024

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RFA(COMM) 184/2023 & CM APP. 44381/2023**GAGANDEEP SARNA****..... APPELLANT****Through: Mr Prashant Katara, Advocate along
with appellant in person.****versus****SMT BALARANI & ORS.****..... RESPONDENTS****Through: Mr Arvind Kr. Gupta and Mr Rishi
Bharadwaj, Advocates for respondent
no.1 along with Mr Suraj Aggarwal
and Mr Vijay Aggarwal, sons of
respondent no.1.**

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RFA(COMM) 196/2023 & CM 62967/2023, CM APP. 46182/2023**SATINDER SINGH SARNA****..... APPELLANT****Through: Mr.Parvez Basista and Mr Soin Khan,
Advocates along with appellant in
person.****versus****SMT BALA RANI & ORS.****..... RESPONDENT****Through: Mr Arvind Kr. Gupta and Mr Rishi
Bharadwaj, Advocates for respondent
no.1 along with Mr Suraj Aggarwal
and Mr Vijay Aggarwal, sons of
respondent no.1.****CORAM:****HON'BLE MR. JUSTICE RAJIV SHAKDHER****HON'BLE MR. JUSTICE AMIT BANSAL****[Physical Hearing/Hybrid Hearing (as per request)]**

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KUMAR

Signing Date:18.03.2024

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RFA(COMM) 184/2023 & RFA(COMM) 196/2023



RAJIV SHAKDHER, J. (ORAL)

CM APP. 58256/2023 in RFA(COMM) 184/2023 [Application filed on behalf of the appellant seeking condonation of delay in filing court fees of Rs 75,400/-]

1. This is an application filed on behalf of the appellant seeking condonation of delay in filing court fees amounting to Rs. 75,400/-.
2. According to the appellant, there is a delay of 56 days.
3. Having regard to the delay involved, we are inclined to condone the delay.
4. Accordingly, the application is allowed and the delay is condoned.

CM APP. 46183/2023 & CM APP. 46184/2023 in RFA(COMM) 196/2023

5. Allowed, subject to just exceptions.

CM APP. 46185/2023 in RFA(COMM) 196/2023 [Application filed on behalf of the appellant seeking condonation of delay in re-filing the appeal]

6. This is an application filed on behalf of the appellant seeking condonation of delay in re-filing the appeal.
7. According to the appellant, there is a delay of 60 days.
8. Having regard to the delay involved, we are inclined to condone the delay.
9. Accordingly, the application is allowed and the delay is condoned.

RFA(COMM) 184/2023 & CM APP. 44381/2023 [Application filed on behalf of the appellant seeking interim relief]

RFA(COMM) 196/2023 & CM APP. 62967/2023, CM APP. 46182/2023[Application filed on behalf of the appellant seeking interim

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relief]

10. We have heard the counsel for the parties at some length.

11. The above-captioned appeals seek to assail the judgment dated 31.03.2023 passed by the learned District Judge, Commercial Court-3, South District, Saket Courts, New Delhi.

12. *Via* impugned judgment, the suit action, instituted by respondent no.1 i.e., Smt. Bala Rani, has been decreed for Rs.74,84,500/-. The principal amount along with interest at the rate of 9% per annum is payable from the date of institution of the suit till realization. Besides this, costs of Rs.1,30,000/- have also been awarded in favour of respondent no.1.

13. We may note that there is no dispute between the contesting parties i.e., the appellants and respondent no.1, in the above-captioned appeals, that out of Rs.74,84,500/-, Rs.5,00,000/- has been paid. Parties also agree that the said sum should be adjusted towards the principal amount. The principal amount thus stands scaled down to Rs.69,84,500/-.

14. Counsel for the parties have arrived at an agreement. Upon receipt of instructions, counsel submit that the appeals be disposed of based on the following agreed terms.

(i) The appellants will be jointly and severally liable to pay the principal amount i.e., Rs.69,84,500/- to respondent no.1 i.e., Smt. Bala Rani, wife of Late Om Prakash Aggarwal.

(ii) Furthermore, Rs.69,84,500/- will be paid in the following manner:

(ii)(a) A down payment Rs.5,00,000/- will be made on or before 07.04.2024.

(ii)(b) The balance amount, i.e., Rs.64,84,500/-, will be paid in the following twenty-four (24) tranches:

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(ii)(b)(1) Installments amounting to Rs.2,00,000/- each will be paid on or before 7th day of every month; the first installment will commence from April, 2024.

(ii)(b)(2) Apart from the above, an additional installment amounting to Rs.5,00,000/- each will be paid on or before the following dates i.e., 30.09.2024, 31.03.2025, and 30.09.2025.

(ii)(b)(3) The last payout will not only include the balance amount, i.e., Rs.1,84,500/- but also include Rs.1,30,000/- which has to be paid towards costs.

(iii) The simple interest will run at the rate of 9% on the reducing balance during the period till the date the entire amount stands remitted to respondent no.1. The interest will commence from today. The interest will be paid over and above the installments indicated above.

(iv) In case there is any default in the payouts as per the terms indicated above, the appellants will pay the entire decretal amount to respondent no.1.

(v) The appellants will file an undertaking in the form of an affidavit which will indicate that the terms and conditions stipulated above will be adhered to. The undertaking given to this Court will also state that if there is a default, the entire decretal amount will be paid over to respondent no.1

(vi) This affidavit will be filed within one (1) week from today. A copy of the same will be furnished to the counsel for respondent no.1.

15. Counsel for the parties will place the order passed by us before the executing Court. The executing Court will pass appropriate orders having regard to the settlement arrived at by the parties before us.

16. Mr Arvind Kumar Gupta, who appears on behalf of respondent no.1, says that respondent no.1 will hand over the custody of the goods received

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on *supardari* to the bailiff.

17. The impugned judgment shall stand modified to the extent indicated above.
18. The appeals are disposed of in the aforesaid terms.
19. Pending applications shall also stand disposed of.
20. Parties will act based on the digitally signed copy of the order.

**RAJIV SHAKDHER
(JUDGE)**

**AMIT BANSAL
(JUDGE)**

MARCH 12, 2024

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