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

+ **C.R.P. 262/2024**

SANDEEP MOHAN

.....Petitioner

Through: Mr.Kartikeya Mudgil, Advocate
(Through VC)

versus

DR. PARAG GUPTA

.....Respondent

Through: None

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

% **05.09.2024**

CM APPL. 51556/2024 (Delay)

1. This is an application under Section 5 of Limitation Act, 1963 read with Section 151 of the Code of Civil Procedure, 1908 for condonation of delay in filing the instant petition.
2. For the sufficient cause being shown in the application, the delay of 11 days in filing the petition is condoned.
3. The application is disposed of.

C.R.P. 262/2024 & CM APPL. 51555/2024 (Stay)

1. The instant civil revision petition under Section 115 of the Code of Civil Procedure, 1908 has been filed on behalf of the petitioner seeking the following reliefs:-

“(a) Set aside order dated 20.05.2024 passed by District Judge- 04, Central, Tis Hazari Courts, Delhi in C.S.D.JNo.47/2022 titled "Dr. Parag Gupta versus Sandeep



Mohan" to the extent the Ld. Trial Court conditionally allowed the application of the petitioner under Order XXXVII Rule 3(5) of Code of Civil Procedure, 1908 thereby granting conditional leave to defend wherein a condition of deposit of 50% of suit amount was imposed; and/or

(b) Allow application of the Petitioner under Order XXXVII Rule 3(5) of Code of Civil Procedure, 1908, thereby granting unconditional leave to defend to the Petitioner in case bearing C.S.D.J No.47 /2022 titled "Dr. Parag Gupta versus Sandeep Mohan" before District Judge-04, Central, Tis Hazari Courts, Delhi; and/or

(c) Pass any other pass any other or further order as this Hon'ble court may in the facts and circumstances of the case and in the interest of justice, deems fit and proper."

2. After some length of arguments, learned counsel appearing on behalf of the petitioner, without entering into the merits of the case, made an innocuous prayer to reduce the condition of deposit of 50% of the suit amount of Rs.7,00,000/- passed by the learned Trial Court *vide* order dated 20th May, 2024.

3. Heard learned counsel appearing on behalf of the petitioner and perused the contents of the instant petition including the material placed on record.

4. Since learned counsel for the petitioner has not pressed the matter on merits and made an innocuous prayer, this Court is inclined to allow the same. Accordingly, the condition of deposit of 50% of the suit amount of Rs.7,00,000/- passed by the learned Trial Court *vide* order dated 20th May, 2024, is reduced to 25% in the aforesaid suit amount in the Court.

5. In terms of the aforesaid direction, conditional leave to defend is granted to the petitioner/defendant to contest the suit, subject to a deposit of 25% of the amount claimed in the suit, before the learned Trial Court in the



form of FDR on or before the next date of hearing. Furthermore, as per the direction of the learned Trial Court, written statement be filed within the prescribed time period after depositing 25% of the suit amount with advance copy to the plaintiff therein.

6. In view of the aforesaid directions, the instant petition alongwith pending application stands disposed of.

CHANDRA DHARI SINGH, J

SEPTEMBER 5, 2024

Dy/sm

[Click here to check corrigendum, if any](#)