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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **TEST.CAS. 21/2016**
SH BHARAT BHUSHAN & ANR Petitioner
Through **Mr. Nitin Bhardwaj, Mr. Praveen**
Pahuja & Mr. Baij Nath Patel, Adv.

versus

STATE & ORS Respondent
Through **Mr. Praveen Chaturvedi & Ms. Jyoti**
Chaturvedi, Adv. for R-2&3
Mr. Atul Bandhu & Mr. Saurabh
Agarwal, Adv. for R-4

CORAM:

SHARAD GUPTA (DHJS), JOINT REGISTRAR (JUDICIAL)

ORDER

% 29.11.2018

Proceeding – 1.52 p.m. to 2.1 p.m.

Evidence – 1.53 p.m. to 2.15 p.m.

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IA No.15942/2018 u/S 151 CPC moved by petitioner for
condonation of delay in filing evidence of petitioner's witnesses

Learned counsel for respondent no.2&3 is present and accepts
notice of the captioned IA.

Arguments heard.

Learned counsel for respondent no.2&3 has vehemently
opposed the captioned IA. Per contra, it is submitted that petitioner
no.2, whose affidavit of evidence as PW1 was to be filed is about 67
years old and is suffering from several diseases associated with old
age. It is further submitted that petitioner no.1 was out of station in
September, 2018 and furthermore the witnesses of the petitioner were
not available at Delhi due to festive seasons and as such the affidavits

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of evidence could not be prepared in time.

A cogent reason for non-filing of the affidavits in time has been shown. Even otherwise, it is well settled that rules of procedure are meant to advance the cause of substantial justice. Without taking hypothetical view, the captioned IA stands allowed and the delay, if any, in filing of affidavits is condoned, subject to payment of cost of Rs.3000/- to respondent no.2&3, who are the only contesting parties in the petition and affidavits filed by the petitioner are taken on record. Copy of affidavit has been supplied to learned counsel for respondent no.2&3 in the court. Accordingly, IA stands disposed of.

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PW1 Mr. Anil Sharma is present and partly examined-in-chief. His further evidence is deferred for want of original documents. PW2 Mr. Ravi Kant Soni is also present and examined-in-chief. His cross-examination is deferred in view of reasons mentioned in his deposition-sheet.

Re-notify the matter for further PE on 17.01.2019 at 2.00 p.m.

**SHARAD GUPTA (DHJS)
JOINT REGISTRAR (JUDICIAL)**

NOVEMBER 29, 2018/ab