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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(OS) 1312/2007**
UJJAL S. MAKKER Plaintiff

Through: None.

Versus

KAVAL BAJAJ & ORS Defendants

Through: Mr. Rajat Bhalla, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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14.02.2017

IA No.1981/2017 & IA No.1982/2017 (of defendant no.1 Kaval Bajaj for setting aside of the order dated 14th September, 2016 proceeding *ex parte* against him and for condonation of 116 days delay in applying therefor)

1. The counsel for the applicant / defendant no.1 on enquiry states that written statement of the applicant / defendant no.1 is already on record.
2. If that be the case, then no substantial proceeding having taken place in the suit after 14th September, 2016, the applicant / defendant no.1 is entitled under the law to join the proceedings even without having the order proceeding *ex parte* against him set aside. Purport of applying for setting aside of the order proceeding *ex parte* is only when something has been done while the defendant was *ex-parte*. Since it is not the case of the applicant / defendant no.1 that anything done *ex parte* is sought to be set aside, the applications are misconceived and are dismissed.
3. Needless to state, the applicant / defendant no.1 is at liberty to join the proceedings.

RAJIV SAHAI ENDLAW, J

FEBRUARY 14, 2017/‘gsr’..