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

+ **CS(OS) 346/2016**

SH AJIT GOGNA

.....Plaintiff

Through: None.

versus

SH JITENDER GOGNA & ORS

.....Defendants

Through: Mr. Vinay Rathi (DHCLSC) and Mr.
Amitraj Kaushal, Advocates for D-1.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

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30.04.2025

I.A. 10805/2025 (u/S 5 of Limitation Act, 1963 r/w Section 151 of CPC, 1908 by Defendant No. 1 for condonation of delay of 552 days in filing Chamber Appeal)

1. This is an application seeking condonation of delay in filing the Chamber Appeal.
2. For the reasons stated in the application, the same is allowed and the delay is condoned.
3. Application stands disposed of.

O.A. 78/2025 (u/Ch. 2 Rule V of Delhi High Court (Original) Side Rules by Defendant No. 1 against order dated 17.08.2023)

4. By this Chamber Appeal, the Appellant/Defendant No. 1 seeks a direction to waive the cost of Rs. 10,000/- imposed by the learned Joint Registrar (Judicial) by order dated 17.08.2023.
5. Counsel for the Appellant urges that Appellant has no means to pay

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the cost and the same be waived.

6. Reading of the impugned order dated 17.08.2023 reflects that on the said date, Appellant sought adjournment to engage a new counsel as his previous counsel had returned the file to him. The adjournment was strongly opposed by counsels for Plaintiff and Defendant No. 2 on the ground that Appellant was intentionally not taking steps to lead Defence Evidence as he is in possession of the suit property and enjoying the same. Learned Joint Registrar noted that as per mediation report, efforts for amicable settlement had failed on 05.04.2023 and thereafter, Appellant had sufficient opportunity and time to take steps to lead Defence Evidence. In the interest of justice, final opportunity was granted to the Appellant to summon the witnesses subject to cost of Rs. 10,000/- out of which Rs. 5,000/- was to be paid to the Plaintiff and Rs. 5,000/- to Defendant No. 2.

7. This Court finds no infirmity in the impugned order by which cost had been imposed on the Appellant. Mediation having failed on 05.04.2023, no steps were taken by the Appellant to even summon the witnesses possibly because he is in possession of the suit property and has nothing to lose while delay may be causing prejudice to the other parties.

8. The appeal is dismissed being devoid of merit directing the Appellant to comply with the order of payment of cost within two weeks from today.

JYOTI SINGH, J

APRIL 30, 2025

S.Sharma

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