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

+ **CS(OS) 330/2018**

ASHOK KUMAR

.....Plaintiff

Through: None

versus

MUNNI DEVI (SINCE DECEASED) THROUGH L.RS AND ANR.

.....Defendant

Through: Mr. N. P. Joshi and Mr. Sandeep
Sharma, Advocates for D-3

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

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12.11.2024

I.A. 44686/2024 (Applicsation under Order IX Rule 7 CPC by defendant no. 3, praying for setting aside of the order dated 05.02.2024)

I.A. 44687/2024 (Application under Section 5 of the Limitation Act for condonation of delay in filing the application under Order IX Rule 7 CPC)

I.A. 44688/2024 (Application under Section 5 of the Limitation Act for condonation of delay in re-filing the application under Order IX Rule 7 CPC)

1. After some arguments, learned counsel for the applicant/defendant no. 3 states that he has instructions to withdraw the prayer to the extent of seeking recall of the order dated 05.02.2024 passed in I.A. 15/2023 with the liberty to assail the said order dated 05.02.2024 passed in I.A. 15/2023 before the appropriate Court in accordance with law.

1.1. He states, that the applicant/defendant no. 3, however, seeks a prayer that the order dated 05.02.2024 to the extent it proceeds ex-parte against the defendant no.3 be set aside and the defendant no.3 be permitted to join the



proceedings in the present suit forthwith, effective today.

2. This Court finds merit in the second relief sought with respect to allowing the applicant/defendant no.3 to participate in the proceedings of the suit hereafter.

3. In view of the submissions made herein before the prayer clause 'a' to the extent it challenges the order passed by the predecessor Bench under I.A. No. 15/2023 is hereby dismissed as withdrawn.

4. The prayer in the application to the extent it seeks leave to join the proceedings from the present stage, is being entertained.

5. None appears on behalf of the plaintiff, despite advance service.

6. Accordingly, issue notice to the non-applicant/plaintiff through counsel via e-mode for this limited purpose.

7. List before the Court on **09.12.2024**.

MANMEET PRITAM SINGH ARORA, J

NOVEMBER 12, 2024/rhc/sk