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

+ RFA 184/2017

NORTH DELHI MUNICIPAL CORPORATION..... Appellant

Through: Mr. Sunil Goel, Standing Counsel with
Ms. Supreet Bimbira, Advocate

versus

SUNITA KAELEY & ANR

..... Respondents

Through: None

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

ORDER

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16.02.2017

CM APPL. 6216/2017 (exemption)

Subject to the appellant filing the certified/typed/legible copies of the documents annexed with the appeal within four weeks, the application is allowed and disposed of.

RFA 184/2017, CM APPL. 6217/2017 (for condonation of delay of 94 days in re-filing the appeal) and CM APPL. 6215/2017 (stay)

1. The appellant/defendant No.2 is aggrieved by the judgment dated 02.07.2016 passed in a suit for permanent and mandatory injunction and damages instituted by the respondent No.1/plaintiff against the respondent No.2 and the appellant, whereunder the respondent No.1/plaintiff has been held entitled to damages from the appellant to the tune of Rs.4,50,000/- alongwith interest.

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2. Mr. Goel, learned counsel for the appellant/NrDMC submits that the impugned judgment is patently erroneous inasmuch as the respondent No.1/plaintiff had not sought any relief of damages against the appellant/defendant No.2 and had confined the relief of damages to the respondent No.2/defendant No.1, as would be apparent from a perusal of the prayer clause of the plaint (Annexure A-2). He adds that based on the pleadings of the parties, when issues were framed on 05.09.2012, the issue framed in respect of the damages was also *qua* the respondent No.2/defendant No.1 and not the appellant.

3. Issue notice to the respondents on the appellant filing the process fee within one week, by ordinary process and speed post, returnable before the Registrar on 17.04.2017 for completion of service in the appeal and for completion service and pleadings in the applications.

4. List in Court on 24.07.2017.

5. Operation of the impugned judgment and decree is stayed till the next date of hearing.

DASTI.

HIMA KOHLI, J

FEBRUARY 16, 2017

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