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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **TR.P.(C.) 11/2016**

SANDIP KUMAR JHA

..... Petitioner

Through Mr. Ashwini Kumar Mata, Sr. Adv. with
Mr. Deepak Kanwar, Mr. Sudhir Kumar
and Mr. S. Vijay Kanth, Advs.

versus

COMMISSIONER OF POLICE DELHI AND ANR Respondents

Through None.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **29.01.2016**

C.M. No.3322/2016 & C.M. No.3323/2016 (Exemption)

Exemption is allowed subject to all just exceptions.

Applications disposed of.

TR.P.(C.) 11/2016 & C.M.No.3321/2016 (stay)

There are two orders which have been impugned before this Court. The first order is dated 21.01.2016 and the second order is dated 25.01.2016. Learned senior counsel for the petitioner (plaintiff in the Trial Court) is aggrieved by the two orders; his submission is that the cause list of the concerned Court has not been uploaded and he was under the bonafide impression that the Court was not sitting on that date. On that date (as per the impugned order), arguments were heard on the application under Order 7 Rule 11 of the CPC without hearing the

plaintiff. The file was again taken up in the post noon hours and this has also been noted in the order dated 21.01.2016 meaning thereby that as soon as the learned counsel for the plaintiff learnt that the case is to be taken up before the concerned Court on 21.01.2016, he rushed to that Court to make his appropriate submissions. His submission that he wants to argue on the application under Order 7 Rule 11 of the CPC was however declined. The last para of the order notes that the conduct of the counsel for un-becoming and this was taken on record. This part of the order is struck off.

The second order is the order dated 25.01.2016 vide which the application filed by the plaintiff seeking review of the order dated 21.01.2016 was declined.

Noting the above factual matrix and also noting the submissions of the learned senior counsel for the petitioner that he was under the bonafide and genuine impression that the case was not listed for 21.01.2016 as the cause list of that Court was not uploaded, there was justifiable reason for the petitioner not to have appeared in the Court in the morning hours but this was made up when he appeared in the post noon hours when he learnt that the case has been taken by the learned Presiding Officer.

The review petition was dismissed with costs. This order is set aside. The matter is now listed for orders on the pending application filed by the defendant (under Order 7 Rule 11 of the CPC) for 30.01.2016. Copy of this order be given dasti to the learned senior counsel for the petitioner to evidence to the Trial Court that he has been granted permission by this Court to address arguments on the application under

Order 7 Rule 11 of the CPC. Payment of cost is also set aside.

With these directions, petition disposed of.

Order dasti under signatures of the Court Master.

INDERMEET KAUR, J

JANUARY 29, 2016

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