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

+ CM(M) 226/2016

NEELAM KAPILA

..... Petitioner

Through Mr.Vishwendra Verma and Ms.Shivali,
Advocates.

versus

SHANTI DEVI

..... Respondent

Through Nemo.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

O R D E R

% **09.03.2016**

C.M. no.8664/2016 (exemption)

Exemption is allowed subject to just exceptions. Application disposed of.

CM(M) 226/2016 & C.M. no.8663/2016 (stay)

Petitioner is aggrieved by the order dated 25.02.2016. His first grievance is qua the dismissal of his application under Order XII Rule 6 of the CPC.

After some arguments, learned counsel for the petitioner submits that he is not pressing his prayer qua that application. His grievance is restricted to the submission that his right to cross-examine PW also stood closed by the same impugned order. The Court had noted that on an earlier date i.e. 14.01.2016 the matter had remained pending for plaintiff evidence but on that date since none had appeared for the defendant, plaintiff evidence stood closed. On the next date i.e. 04.02.2016 again neither the defendant appeared nor his counsel for leading defendant evidence on that date but an application seeking a

recall of the order dated 14.01.2016 was filed. On that date one more opportunity had been granted to the petitioner to lead evidence in defence. By the impugned order, the application filed by petitioner (defendant in the Trial Court) seeking his right to cross-examine PW had been dismissed as the Court had held that no plausible ground had been taken in the application for not cross-examining the PW on earlier dates.

Learned counsel for the petitioner submits that the said PW has been cross-examined in part and he needs to cross-examine the petitioner for one more date as a valuable right would be lost if he is not able to emanate his defence from the further cross-examination of the PW.

Subject to payment of Rs.10,000/- as costs, one more opportunity is granted to the petitioner to further cross-examine the said PW. It is made clear that no further opportunity shall be granted.

Learned counsel for the petitioner (defendant in the Trial Court) undertakes to inform learned counsel for the respondent (plaintiff in the Trial Court) about this order in order that the PW can be present in Court for his further cross-examine on the next date fixed before the Trial Court.

With these directions, petition disposed of.

Order dasti under signatures of the Court Master.

INDERMEET KAUR, J

MARCH 09, 2016

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