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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 448/2016**
DR SATISH VADDIBOINA

..... Petitioner

Through Mr.Mayank Mahendru, Advocate.

versus

M/S MEGHMEDITECH PVT LTD

..... Respondent

Through Nemo.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **09.05.2016**

C.M. No.17339/2016 (exemption)

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

CM(M) 448/2016 & C.M. No.17329/2016 (stay)

Petitioner is aggrieved by the order dated 02.02.2016 vide which his application seeking a recall of the order dated 16.09.2015 had been dismissed.

On 16.9.2015 the petitioner (defendant in the Trial Court) had been proceeded ex parte. He had moved an application seeking setting aside of the order dated 16.9.2015. Submission being that on the intervening date i.e. 13.10.2015 the lawyers were on strike as such the petitioner could not enter his appearance. The Trial Court did not consider his case sympathetically. A valuable right of the petitioner would be lost in case he is not allowed to plead his defence.

Record shows that the present suit has been filed by the plaintiff for recovery of money. Defendant had been duly served but since none had appeared for him on 16.9.2015, the Trial Court noting the tracking report of the postal receipts evidencing service upon the defendant had proceeded ex parte against him. As explained by the learned counsel for the petitioner that on 13.10.2015 that lawyers were on strike, the Trial Court had noted the facts but had not been sympathetic to the prayer sought for by the petitioner.

This Court is of the view that a valuable right would be lost in case the he is not allowed to be permitted to plead his defence. The non-applicant/plaintiff may be compensated with cost.

Accordingly, while setting aside the impugned order dated 02.02.2016 as also earlier order dated 16.9.2015, the petitioner/defendant is permitted to file his written statement which shall be filed within an outer limit of two weeks from today with advance copy to the learned counsel for the plaintiff.

This order is passed subject to payment of Rs.20,000/- as costs.
Petition disposed of.

Order dasti under signatures of the Court Master.

INDERMEET KAUR, J

MAY 09, 2016
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