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

+ W.P.(C) 5534/2014 with CM Appl. No. 13743/2014

THE MANAGMENT OF M/S HOTEL
JANPATH

..... Petitioner

Through Mr. Anurag Ranjan, Advocate

versus

ITS WORKMEN THR ALL INDIA
PRAYATAN JAN MAZDOOR SABHA

..... Respondent

Through Mr. Puneet Gupta, Advocate

CORAM:

HON'BLE MR. JUSTICE V.P.VAISH

ORDER

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28.04.2016

1. The petitioner, *inter alia*, seeks quashing of award dated 17.04.2014 passed by Additional District Judge East, Karkardooma Courts, Delhi in Ex.No.7/13 whereby the application under order 21 Rule 106 read with Order 21 Rule 23 and Section 151 CPC filed by the petitioner herein to the execution of award dated 16.03.2014 in ID No. 267/2002 was rejected.

2. Briefly stating the facts of the present case are that vide award dated 16.03.2004 in ID No. 267 of 2002 the respondents were held to be entitled for the officiating allowance for the period they held the higher posts under the orders/ instructions of the Management/petitioner. Aggrieved by the said order, the petitioner

preferred a writ petition bearing W.P.(C)No. 19898/2005 and the same was dismissed vide order dated 08.05.2012. Thereafter, the petitioner filed LPA being 593/2012 and this Court vide order 21.03.2003 referred the matter back to the Industrial Tribunal for deciding the application under Order 9 Rule 13 CPC of the petitioner. The same was dismissed by the Industrial Tribunal vide order dated 27.09.2013.

3. Learned counsel for the petitioner submits that the petitioner moved an application under Order 21 Rule 106 read with Order 2 Rule 23 and Section 151 CPC which was dismissed vide impugned order dated 17.04.2014 on the ground that the petitioner herein has not filed the exact calculations but approximate calculations and the same are not signed by any officer or any official of the management petitioner.

4. Learned counsel for the petitioner seeks time to file the exact calculations before the learned Executing Court.

5. During the course of arguments, Mr.Puneet Gupta, learned counsel for the respondent submits that he has no objection if the petitioner is permitted to file the exact calculations before the Executing Court.

6. Undisputedly, the award dated 16.03.2014 has become final. The interest of justice requires that the execution petition be decided on merits.

7. In view of the facts and circumstances of the case and submissions made by learned counsel for the parties, award dated

17.04.2014 is set aside. The petitioner is directed to file the exact calculations on or before the next date of hearing. The learned Executing Court is directed to decide the execution petition expeditiously and preferably within a period of four months in accordance with law.

8. Both parties are directed to appear before the learned Executing Court on 16.05.2016 at 10 a.m.

9. Accordingly, the petition as well as application stand disposed of.

V.P.VAISH, J

APRIL 28, 2016/gm