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

+ CM(M) 768/2016

JAVED ALI Petitioner
Through Mr.Abdul Salam, Advocate.

versus

MERAZUDDIN Respondent
Through None.

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% 22.08.2016

CM No. 28990/2016 (exemption)

Exemption is allowed subject to all just exceptions.

CM No. 28991/2016 (condonation of delay)

In view of the averments made in the application, the delay of 40 days in re-filing is condoned.

The application is disposed of.

CM(M) 768/2016 and CM No. 28989/2016 (stay)

1. By the present petition, the petitioner seeks to impugn the order dated 11.04.2016 by which his application to recall the earlier order dated 22.03.2016 was dismissed. By the earlier order dated 22.03.2016, the right of the petitioner to lead evidence as per the list of witnesses was closed.
2. By the impugned order dated 11.04.2016, the trial court noted that the matter had been pending for defendant's evidence since 27.11.2015 when

the defendant/petitioner was directed to file an affidavit and supply copy of the same in advance. The trial court also noted that despite a number of opportunities being granted to the defendant/petitioner, the defendant failed to avail the same. Hence, the application was dismissed.

3. Learned counsel appearing for the petitioner submits that the affidavit by way of evidence of three witnesses has already been filed and that the petitioner does not seek to examine any other witnesses. It is further submitted that on 22.03.2016 the petitioner and his witnesses were present in court but on account of some confusion were standing outside when the matter was called. This fact, it is urged, was noted by the trial court in the order dated 11.04.2016.

4. In view of the fact and circumstances, as one last opportunity subject to payment of costs of Rs.10,000/- is granted to the petitioner as final opportunity to complete examination of the three witnesses whose affidavit by way of evidence is already on record before the trial court. The petitioner shall not be granted any adjournment whatsoever by the trial court for the said purpose.

5. It may be noted that an advance copy of the petition has been sent to the respondent by speed post but none is present on their behalf.

6. The petition stands disposed off.

7. Dasti.

JAYANT NATH, J

AUGUST 22, 2016

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