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

+ C.R.P. 99/2016

RAJESH KUMAR SINGH Petitioner
Through Mr. Avdhesh Kr.Singh and
Mr.Rajendra Kr.Singh, Advocates.
versus
AMAR SINHA Respondent
Through None.

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% 19.07.2016

CM No.25270/2016 (exemption)

Exemption is allowed subject to all just exceptions.

C.R.P. 99/2016 and CM No.25269/2016 (stay)

1. By the present petition the petitioner seeks to impugn the order dated 05.03.2016 passed by the trial court. By the said order the trial court dismissed the application of the petitioner under Section 151 CPC for recalling the order dated 24.11.2015. By order dated 24.11.2015, the trial court had struck off the defence of the petitioner/defendant in the counter claim.
2. A perusal of the impugned order would show that the petitioner is guilty of repeatedly taking several adjournments and also of other delaying tactics. It was in that background that the trial court has passed the impugned order.

3. Learned counsel appearing for the petitioner submits that he is ready to deposit the total cost which is Rs.24,500/-. He further submits that the earlier counsel engaged by the petitioner could not appear on account of an illness in the family.

4. Learned counsel appearing for the petitioner also submits that if an opportunity is granted to defend the counter claim, the petitioner at no stage would take any adjournment. He also submits that his client is ready to abide by any terms and conditions that may be fixed by this court for recalling the order striking off the defence of the petitioner inasmuch as irreparable injury would be caused to his client in case the defence is stuck off.

5. In the interest of justice, the petitioner is permitted to file a review petition before the trial court subject to payment of costs of Rs.24,500/- as per the various directions passed by the trial court. In addition to this, the petitioner would also pay a sum of Rs.25,000/- as additional costs. The review petition would be heard only subject to payment of these costs of Rs.49,500/- within two weeks from today. It is further directed that the petitioner shall not seek any adjournment at any stage in the progress of the counter claim. In case an adjournment is sought, the impugned order striking off the defence of the petitioner would stand revived.

6. In case the above conditions regarding cost are complied with, the trial court may decide the review application of the petitioner as per law.

7. Petition stands disposed of in the above terms.

8. Dasti.

JAYANT NATH, J

JULY 19, 2016/rb