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

+ CM(M) 849/2016 and CM No. 31573/2016 (stay)

SOUTH DELHI MUNICIPAL CORPORATION Petitioner
Through Mr. Nikhil Goel and Mr. Ashutosh
Ghade, Advocate

versus

POOJA SINGHAL & ORS Respondents
Through Mr. Ashish Jha, Proxy Counsel

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

ORDER
20.10.2016

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1. By the present petition, the petitioner seeks to impugn the order dated 27.05.2016 passed by the Labour Court Karkardoom Courts whereby the right of the petitioner to cross-examine WW1 was closed.
2. As per the order dated 27.05.2016, the matter was fixed for cross-examination of WW1. She had been examined on the last date, namely, 26.02.2016 and her cross had been deferred on the request of the representative of the Management. On 27.05.2016 again representative of the Management sought an adjournment on the ground that the Management has not supplied him complete file and that is why he has moved an application for certified copies of the court file he still not got.
3. The labour court noted that it is the fault of the management that it did not supply complete file to its representative and closed the right of the

Management to cross-examine WW1.

4. Though, learned counsel appearing for the respondents has sought an adjournment stating that the main counsel is not available, in my opinion, there are no reasons to give an adjournment. It is a small procedural issue and further delay in disposal of the present petition would only harm the workman further.

5. It would be unfair to refuse to the petitioner the right to cross-examine WW1 on the ground that the petitioner sought an adjournment on two dates. It is in the interest of justice that a last opportunity is granted to the petitioner to cross-examine WW1 subject to payment of costs of Rs.10,000/- payable to the workman.

6. At this stage, learned counsel appearing for the petitioner points out that by the impugned order the labour court had also imposed a costs of Rs.10, 000/- and directed that the said costs would be deducted from the salary of the Deputy Law Officer. The authorised representative of the petitioner had sought time to file a reply of the Commissioner, South Delhi Municipal Corporation. However, a reply was filed by the Deputy Law Officer on behalf of the Commissioner and the said reply was rejected. The same officer again filed a reply and the said reply was again rejected subject to payment of costs of Rs.10,000/- payable by the Management in favour of the Delhi Legal Aid Cell. The Management was directed to deduct the costs from the salary of the Deputy Law Officer.

7. Learned counsel appearing for the petitioner submits that the Deputy Law officer is authorised under Section 491 of the MCD Act to file a reply on behalf of the Commissioner of the Municipal Corporation.

8. However, if the labour court had directed a personal reply from the

Commissioner of the South Delhi Municipal Corporation, needful should have been done. However, in the interest of justice, the impugned order is modified to the extent of the direction to deduct the costs from the salary of the Deputy Law Officer. That portion of the order is deleted. The costs imposed by the labour court and the cost imposed by this court totalling a sum of Rs.20,000/- shall be paid to the workman. No deduction would be made from the salary of the Deputy Law Officer.

9. With the above observations, the petition stands disposed of.

JAYANT NATH, J

OCTOBER 20, 2016

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