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

+ CM(M) 1131/2016 & CM Nos.41808/2016 & 41810/2016

I.N. CHOUDHARY Petitioner
Through Mr.Mukesh Kumar Verma, Advocate
versus
DR JASWANT SINGH & ANR Respondent
Through None

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **17.11.2016**

1. Advance copy of the petition has been served at the chamber of learned counsel for the respondent. This is evident from the receipt placed on record. Despite service none is present for the respondent.
2. By the present petition filed under Article 227 of the Constitution of India the petitioner seeks to impugn the order dated 2.3.2016 by which the right of the petitioner to cross-examine the plaintiff's witness was closed.
3. A perusal of the impugned order shows that strong observations have been noted by the Court against the learned counsel appearing for the petitioner including the manner in which he conducted himself in court. Subsequently, the order notes that apart from the conduct, counsel for the petitioner commenced cross-examination but was deliberately wasting time and more than two hours elapsed and the cross-examination remained inconclusive. He repeatedly kept flipping pages of his file to search documents and kept consuming time in this manner. Subsequently, in the course of proceedings two applications were filed seeking adjournment. Hence, the right to cross-examine was closed.

4. At the outset, when the matter came up for hearing before this Court on 10.11.2016, submission of learned counsel for the petitioner was noted that he had no intention to in any manner obstruct the functioning of the Court or to create any untoward incident which would in any manner hamper the functioning of the Court or would in any manner affect the Court. He offered to tender unconditional apology before the Court.

5. Learned counsel for the petitioner has today in Court handed over a document said to have been filed before the trial court whereby he submits that unconditional apology has been tendered to Court. The document reads as follows:-

“COMPLIANCE OF ORDER DATED 10.11.2016 in CM(M)
No.1131/2016

1. That in compliance of the statement given to the Hon’ble Court in CM(M) No.1131/2016. The counsel for the respondent tender unconditional apology.”

6. Learned counsel appearing for the petitioner reiterates that he seeks unconditional apology for anything untoward that may have taken place before the trial court. He further submits that the petitioner is 84 years old and suffering from various ailments and that the petitioner on that date was in hospital for his treatment. He also points out that various litigations are pending between the parties and hence he had made a request for clubbing up of the matter before the concerned District Court. He submits that one last opportunity may be granted to the petitioner to complete cross-examination and that he shall not take any adjournment on the date, so fixed.

7. A perusal of the impugned order shows that costs of Rs.2,000/- have not been paid. In the interest of justice and keeping in view the old age of the petitioner, subject to payment of costs of Rs.5,000/- plus Rs.2,000/-

which has not been paid before the trial court i.e. Rs.7,000/- in total, the petitioner is granted one last opportunity to cross-examine the plaintiff's witness who was being cross-examined when the right was closed on 2.3.2016. Petitioner shall be granted no adjournment on the date fixed for cross-examination. During the said cross-examination by the trial court he shall not ask irrelevant questions and waste the time of the court.

8. With the above observations, the present petition stands disposed of. All pending applications also stand disposed of.

JAYANT NATH, J

NOVEMBER 17, 2016

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