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

+ CM(M) 1155/2016 and CM Nos. 42338-40/2016

HEMANT BHANDARI Petitioner
Through Mr.Jitender Vashist, Advocate.

versus

SHIV PRAKASH BANSAL Respondent
Through

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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01.12.2016

1. By the present petition filed under Article 227 of the Constitution of India, the petitioner seeks to impugn the order dated 12.02.2016 by which the court had granted liberty to the petitioner to place on record the list of witnesses subject to payment of costs of Rs.25,000/-.
2. Learned counsel appearing for the petitioner submits that firstly, the suit is for recovery of principal sum of Rs.50,000/- and including interest, the suit is for recovery of Rs.67,250/-. He submits that imposition of costs of Rs.25,000/- is a huge penalty and completely disproportionate to the loss caused to the respondent by the delayed filing of the list of witnesses. He relies upon the judgment of this court in the case of *M/s. Progressive Constructions Ltd. vs. M/s. Sharma Associates and Contractors Pvt. Ltd. & Anr., AIR 2001 Delhi 494* to contend that imposition of costs has to be reasonable and it should not be by way of a penalty. He secondly submits

that the suit was concluded by the trial court and the same was dismissed vide order dated 11.11.2016.

3. It was posed to the learned counsel for the petitioner as to why he seeks to file the present petition as the suit already stands disposed of. He submits that there is a possibility that the respondent may seek to execute the cost imposed

4. Despite an advance notice, none has appeared for the respondent.

5. Keeping in view the fact that the suit was for recovery of Rs.67,250/-, it is clear that the imposition of cost of Rs. 25,000/- was grossly disproportionate. Keeping in view the above facts, the cost is reduced to Rs.2,000/-.

6. With the above directions, the petition and all pending applications stand disposed of.

JAYANT NATH, J

DECEMBER 01, 2016

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