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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CONT.CAS(C) 972/2016

SUNITA RANI

..... Petitioner

Through: Mr. Shankar Raju, Advocate with
Mr. Nilansh Gaur, Advocate.

versus

KEWAL KUMAR SHARMA & ANR

..... Respondents

Through: Mr. Peeyoosh Kalra, Advocate ASC for
GNCT of Delhi.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

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09.01.2017

CM Appl. 487/2017 in Cont.Cas(C) 972/2016

Present application has been filed by respondent for modification of order dated 01st September, 2016 whereby Court directed petitioner to file an undertaking stating that in the event the Supreme Court decides the SLP filed by the respondents against the order dated 13th August, 2015 passed in LPA 533/2008 in favour of respondents, then the money received by the petitioner by virtue of Division Bench order shall be refunded to the respondents within a period of four weeks.

The undertaking was to specifically state that in the event the petitioner does not repay the amount within the stipulated period, the respondents shall be at liberty to adjust the same against the petitioner's

retiral dues/payments.

Learned counsel for applicant states that whereas the arrears of salary payable to petitioner totals to Rs.19,78,651/- approx., the retiral benefits/dues of petitioner amounts to less than Rs.1 lac. He prays that the order dated 01st September, 2016 be modified so that any prospective recovery proceedings if ever initiated against the petitioner may not become protracted as there is a huge monetary value gap between the arrears of salary payable to the petitioner and the retiral benefits/dues which are payable to her.

In the opinion of this Court, in accordance with the Division Bench order against which stay has been specifically refused by the Apex Court, amount has to be paid to the petitioner unconditionally. The petitioner's undertaking was an additional security offered voluntarily by the petitioner at the suggestion of the Court. If the security is inadequate, the respondent will have to resort to legal means to recover the amount. After all in contempt proceedings, this Court cannot go behind the Division Bench order and cannot direct the petitioner to furnish a security it is not bound to offer.

Accordingly, present application is dismissed.

MANMOHAN, J

JANUARY 09, 2017

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