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

+ RSA 363/2014

DIPAK BHATTACHARYA

..... Appellant

Through: Mr. V.K.Sidharthan, Advocate.

versus

M/S CENTRAL PROVINCE CLUB NAGPUR LTD.

..... Respondent

Through: Mr. Pankaj Kapoor & Mr. Harsh  
Kalta, Advocates.

**CORAM:**

**HON'BLE MR. JUSTICE VIPIN SANGHI**

**ORDER**

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**28.09.2016**

**C.M. No.26493/2016**

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

**C.M. Nos.26491-92/2016**

The appellant has preferred the aforesaid applications.

C.M. No.26491/2016 has been preferred to seek restoration of the second appeal, which had been dismissed on 22.09.2015. C.M. No.26492/2016 has been preferred to seek condonation of delay in filing the first application. The order dated 22.09.2015, of which recall is sought, reads as follows:

**“C.M. No. 20809/2015**

*For the reasons stated in the application, the delay in filing the review petition is condoned.*

*The application stands disposed of.*

**Review Petition No.445/2015**

*After some arguments, learned counsel for the appellant seeks liberty to withdraw the review petition.*

*Dismissed as withdrawn.”*

That order was passed in the Review Petition No.445/2015. By the said review petition, the appellant had sought review of the order dated 17.07.2015, whereby the second appeal had been dismissed after hearing counsel for the parties. The Court had returned the finding that no question of law arose for determination in the second appeal.

The submission of learned counsel for the applicant is that the review petition had been withdrawn by the proxy counsel.

I do not find any merit in this submission. The matter had been heard and after some arguments, since the Court was not inclined to issue notice on the review petition, the same was withdrawn.

The further submission of learned counsel for the appellant is that the appellant had preferred a Special Leave Petition before the Supreme Court on 22.02.2016. The Supreme Court had allowed the petitioner to withdraw the Special Leave Petition with liberty to approach the appropriate forum to avail remedies as are available in law.

Merely because the Supreme Court had permitted the petitioner/appellant to seek remedies before the appropriate forum in accordance with

law, it does not mean that the appellant/ applicant is entitled to seek review of the order dated 22.09.2015, which had been passed in open Court after hearing learned counsel for the appellant. Pertinently, no application to seek recall of the said order was moved forthwith immediately after the passing of the said order on the ground that the counsel representing the appellant on the said date was not authorised to withdraw the review petition. In my view, the appellant is resorting to abuse of process of the Court by repeatedly moving one application after another.

Accordingly, the applications are dismissed with costs of Rs.50,000/- to be deposited with the Prime Minister's National Relief Fund. The costs be deposited within four weeks.

**VIPIN SANGHI, J**

**SEPTEMBER 28, 2016**

*B.S. Rohella*