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

+ CM(M) 1073/2016

HARINDER WADHAWAN Petitioner
Through Mr. Vivek Luthra, Advocate.

versus

SAROJ GAUR Respondent
Through

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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24.10.2016

CM No. 39282-83/2016 (exemption)

Exemption is allowed subject to all just exceptions.

CM(M) 1073/2016 and CM No. 39281/2016 (stay)

1. By the present petition filed under Article 227 of the Constitution of India, the petitioner seeks to impugn the order dated 14.09.2016 by which the petitioner's evidence was closed. A perusal of the order shows that the ARC noted that on 27.08.2016 the petitioner was directed to file the list of witnesses before the next date as a last opportunity. Needful has not been done. Even otherwise, the names of the witnesses of the petitioner were not specified and hence, the ARC closed the evidence petitioner.

2. Learned counsel appearing for the petitioner submits that grave prejudice would be caused to the petitioner, in case evidence of the petitioner is closed. The present petition has been filed by respondent for

eviction of the petitioner from the shop situated on the Ground Floor of the property No. 2774/20, Beadon Pura, Karol Bagh, Delhi. He submits that it is important to summon the witnesses from the Bank in view of what transpired in the cross-examination of PW-1 of Smt. Saroj Gaur held on 14.03.2016. He submits that the delay in filing the list of witnesses was inadvertent and a bona fide mistake and the petitioner should not be penalised so harshly for the same. He submits that only one opportunity be given to summon the concerned witnesses from Indian Bank and State Bank of India pertaining to the account of the respondent herein.

3. Despite service of advance copy of the petition by speed post on the respondent, none is present on behalf of the respondent.

4. Keeping in view the averments of the petition and the fact that the in the absence of any evidence of the petitioner, the petitioner would suffer grave irreparable loss and injury, it is in the interest of justice that one opportunity is granted to the petitioner to lead evidence subject to any exceptions and objections that may be raised by the respondent. The petitioner is given one opportunity to summon the concerned witnesses subject to payment of costs of Rs. 15,000/-. The witnesses shall be summoned on the date to be fixed by the ARC and no adjournment shall be granted to the petitioner on the said date.

5. The petition and all pending applications, if any, stand disposed of.

JAYANT NATH, J

OCTOBER 24, 2016

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