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

+ CM(M) 1135/2016 & CM No.41936/2016

ICICI BANK LTD Petitioner
Through Mr.(name not given), Adv.

versus

M/S HARNAM ELECTRICAL & MECHANICAL IND...Respondent
Through

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

ORDER
11.11.2016

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1. By the present petition under Article 227 of the Constitution of India the petitioner seeks to impugn the order dated 10.5.2016 by which order the trial court observed that citation has not been effected in Hindi language despite several orders and dismissed the suit for non-prosecution. Subsequently, the petitioner also moved an application for restoration on 13.7.2016.
2. The plaintiff has filed the present suit against the respondent for recovery of Rs.4,68,408.00/-. On 22.8.2015 the trial court observed that the respondent is not residing at the given address and that the petitioner has no other address available and directed publication in newspaper "Veer Arjun" hindi edition and "Statesman" english edition. The necessary publication was carried out.
3. However, on 7.10.2015 the trial court noted that citation has been published in an English Newspaper. However, in the hindi newspaper "Veer

Arjun” though the citation was published it was published in English language. The trial court was of the view that the very purpose of the direction is defeated and directed fresh publication in “Veer Arjun” in Hindi. Matter was fixed on 7.10.2015 and 25.2.2016. As no steps were taken finally on 10.5.2016 suit was dismissed for non prosecution.

4. Learned counsel appearing for the petitioner has stressed that the petitioner did carry out the publication and had deposited the necessary costs with the Nazarat Branch. Other steps have been taken by the Nazarat Branch on its own and the petitioner cannot be held responsible for the same. He submits that subsequently also he followed up with the Nazarat Branch but the Nazir wanted a specific order regarding publication being provided in hindi to be published in the hindi newspaper. He apologises that the counsel was not present on that date when the matter was fixed i.e. on 10.5.2016 on account of being held upon another court.

5. Taking a liberal view of the matter and in the interest of justice, one last opportunity is granted to the petitioner to carry out necessary publication subject to payment of costs of Rs.10,000/- payable to the Delhi High Court Legal Services Committee. The petitioner may approach the trial court for appropriate orders in this regard. The petitioner to appear before the trial court on 6.12.2016. On that date trial court may pass appropriate orders directing Nazarat Branch appropriately. Impugned order is set aside.

6. Petition and all pending applications stand disposed of.

7. Dasti.

JAYANT NATH, J

NOVEMBER 11, 2016

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