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

+ **CM(M) 1247/2016**

ASHOK KRIPLANI

..... Petitioner

Through Mr. Ashok Kriplani, Petitioner-in-person.

versus

ASHOK SHARMA

..... Respondent

Through

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **02.12.2016**

CM No.44788 /2016 (exemption)

Allowed subject to just exceptions.

CM(M) 1247/2016 44789/2016 (stay)

1. By the present petition filed under Article 227 of the Constitution of India, the petitioner seeks to impugn the order dated 05.10.2015 and the order dated 04.11.2016.
2. By order dated 05.10.2015 the trial court had allowed the application of defendant No.2/responder under Order 9 Rule 7 CPC for setting aside ex parte order dated 12.02.2015. By order dated 04.11.2016, the review petition was dismissed.
3. The petitioner has filed this suit for damages on account of malicious prosecution. On 12.02.2015, as none had appeared for the respondent, he was proceeded ex parte.

4. In the application filed, the respondent has stated that the summons were sent to P.S. Mangol Puri where the respondent was earlier posted. Hence, none had appeared for the respondent on 12.02.2015. Thereafter, when he came to know about the pendency of the suit, he has approached the government for appointment of a government counsel and the concerned government counsel was appointed.

5. The petitioner who appears in person has made two submissions. Firstly, that no sufficient cause is shown for setting aside the ex parte order. Secondly, that the respondent being a police officer of Delhi Police would not be entitled to a government counsel from the Delhi Government.

6. In my opinion, there is no merit in the contentions of the petitioner. The respondent has shown sufficient cause for his non-appearance on 12.02.2015 as summons had been sent to a place where he was not posted. As far as the second argument is concerned, it is not for the petitioner to object in case State Government on the request of the respondent appointed a counsel to defend his case.

7. Though the petitioner has vehemently argued that the respondent was duly served, in my opinion, there is no infirmity in the order that would warrant interference of this court to exercise powers under Article 227 of the Constitution of India.

8. The present petitioner is accordingly dismissed.

9. All pending applications also stand dismissed.

JAYANT NATH, J

DECEMBER 02, 2016

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