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

+ CM(M) 1242/2016

MANOJ KUMAR

..... Petitioner

Through Mr.Prasoon Kumar, Mr.Kshitij
Kumar and Ms.Mansi Aggarwal, Advocates

versus

PHOOL KUMAR

..... Respondent

Through

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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02.12.2016

CM No.44722/2016

Exemption allowed, subject to all just exceptions.

CM(M) 1242/2016 & CM No.44721/2016

1. By the present petition under Article 227 of the Constitution of India the petitioner seeks to impugn the order dated 27.9.2016 by which an application seeking permission to cross-examine PW-1 Shri Phool Kumar was dismissed by the trial court. The respondent has filed the suit for recovery of Rs.4,80,000/-. A perusal of the order dated 17.5.2016 passed by the trial court would show that the petitioner has been repeatedly seeking adjournments for cross-examination. The matter was fixed on 15.7.2015 for cross-examination of PW-1 and was adjourned subject to cost of Rs.3,000/-. Similarly, on 7.10.2015 again it was adjourned at the cost of Rs.4,000/-. On 17.5.2016, out of the total costs of Rs.7,000/- the petitioner paid Rs.3,000/-.

2. In the impugned order it was noted that the petitioner could not pay the costs on 15.7.2015 as his parents were said to be admitted in Jeevan

Nursing Home, Pusa Road, New Delhi. However, the trial court dismissed the application.

3. Despite service of advance notice to the respondent's counsel none is present today. Learned counsel appearing for the petitioner submits that he is ready to pay the costs. He reiterates that the grounds which are noted by the trial court in its order dated 27.9.2016 are bona fide and genuine. He submits that suit is for recovery based on an alleged loan given to the respondent in cash. He submits that cross-examination of PW-1 is necessary otherwise an irreparable loss would be caused to the petitioner.

4. In the interest of justice, subject to payment of costs of Rs.6,000/- i.e. the costs of Rs.3,000/- which was earlier imposed and an additional costs of Rs.3,000/-, the petitioner is granted one last opportunity to cross-examine PW-1 on the date to be fixed by the trial court. The petitioner shall not be entitled to any adjournment on the date so fixed.

5. Petition and all pending applications stand disposed of.

6. Dasti.

JAYANT NATH, J

DECEMBER 02, 2016

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