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

+ CM(M) 1241/2016 and CM Nos. 44676-78/2016

THE ORIENTAL INSURANCE CO. LTD. Petitioner
Through Mr.Madhurendra Kumar, Advocate

versus

SAWHNEY BROTHERS & ANR. Respondents
Through

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

ORDER
30.11.2016

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1. By the present petition filed under Article 227 of the Constitution of India the petitioner seeks to impugn the order dated 10.11.2016 by which bailable warrants were issued against the Divisional Manager of the petitioner. The Divisional Manager was also asked to appear in person alongwith the summoned record on the next date of hearing i.e. 1.12.2016 i.e. tomorrow.

2. The court had summoned two policies dated 21.7.1979 and 31.7.1979. The concerned Assistant from The Oriental Insurance Co.Ltd.DO-10,Vikas Puri, New Delhi Office appeared on 20.10.2016 and made a submission that since the copy of the Policy Covers and the Office Code have not been provided he has not been able to bring the policies. The court gave him time to bring the concerned policies by the afternoon. As he was unable to do the same costs of Rs.5,000/- was imposed at that stage. Submission of the concerned person was noted that though summons were received but the record relates to a different branch. He admitted that the summons were not

forwarded to the concerned office/branch. The matter was fixed for 22.10.2016 for production of the summoned record. Again on 22.10.2016 no record was produced.

3. It was in these circumstances that on 10.11.2016 impugned order was passed. Learned counsel appearing for the petitioner has reiterated the submissions all over again. He submits that record from the wrong office had been summoned. The record of the concerned policies is available with DO-II office. He also submits that the Divisional Manager who was summoned does not supervise DO-II Office. He submits that the trial court should have summoned the records from the correct office.

4. There is no merit in the contention of the petitioner. The petitioner could have easily informed the concerned DO about the summons so that the concerned office could have taken the appropriate steps. The summons should have been forwarded to the correct office.

5. It was posed to learned counsel appearing for the petitioner as to whether the policy is being produced tomorrow before the trial court. He submitted that the policy is not readily available being of 1979. He further submits that Divisional Manager is unwell and hence may not be able to appear in person.

6. Let the petitioner move an appropriate application before the trial court seeking additional time for locating the policies in question. Appropriate application for exemption of the Divisional Manager may also be filed before the concerned court with appropriate medical certificate. In case such applications are moved the trial court may deal with it as per law keeping in mind the difficulties of the petitioner. The bailable warrants issued against the Divisional Manager for tomorrow's hearing only are set

aside. However, the trial court is at liberty to revive the same subsequently in case of continued default on the part of the insurance company. Petition stands disposed of. All pending applications, if any, also stand disposed of.

7. A copy of this order be given dasti under signatures of the Court Master to learned counsel for the petitioner.

JAYANT NATH, J.

NOVEMBER 30, 2016/n