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

+ CM(M) 1308/2016

BSES RAJDHANI POWER LTD Petitioner

Through Mr.Sunil Fernandes, Standing
Counsel for BSES with Mr. Puneet H.K.G,
Advocate.

versus

COL RC VIRMANI Respondent

Through

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **20.12.2016**

CM No.46989/2016 (*exemption*)

Allowed subject to all just exceptions.

CM(M) 1308/2016 & CM No.46988/2016(*stay*)

1. By the present petition filed under Article 227 of the Constitution, the petitioner seeks to impugn the order dated 15.04.2015 by which an application under Order 8 Rule 1 CPC for production of additional documents was dismissed.
2. A perusal of the impugned order shows that the basic ground on which the application was dismissed was that the reasons for the delay in production of additional documents have not been put forth.
3. The plaintiff's evidence has also been completed.
4. A perusal of the application under Order 8 Rule 1A(3) CPC shows

that it is stated in the application that when the matter was fixed for DE, the officials of the petitioner had brought the enforcement file wherein these documents were found.

5. Learned counsel appearing for the petitioner has also pointed out that the petitioner/BSES has 10 million consumers. The file was not readily traceable at that stage.

6. An advance copy of the petition has been served on the respondent. But none is present on behalf of the respondent.

7. In view of the above, it cannot be said that no explanation has been given for not filing these documents earlier. Accordingly, the impugned order suffers from material irregularity and the same is quashed. The trial court is requested to re-hear the application of the petitioner and pass an order as per law. Liberty is also granted to the petitioner to file an additional affidavit to further elaborate the reasons for the delay in filing of these documents.

8. This additional affidavit may be filed subject to payment of Rs.5,000/- to the respondent. In case, the cost is paid and the additional affidavit is filed within two weeks from today, the same may be taken on record.

9. In view of the above, the petition stands disposed of.

10. Copy of the order be given dasti under the signatures of the Court Master.

JAYANT NATH, J

DECEMBER 20, 2016

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