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

+ W.P.(C) 11830/2015 & CM 31418/2015

M/S NEW OKHLA INDUSTRIAL
DEVELOPMENT AUTHORITY

..... Petitioner

Through: Mr. Sudhir Gupta, Adv.

versus

M.S. LEKHI

..... Respondent

Through: Mr. Harvinder Singh, Adv.

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

ORDER

% **22.12.2016**

1. The petitioner has challenged the order dated 21st September, 2015 whereby the learned Labour Court has dismissed the petitioner's application under Order 9 Rule 7 of the Code of Civil Procedure.
2. Learned counsel for the respondent submits that the petitioner was proceeded *ex parte* on 21st November, 2008 before recording of the respondent's evidence and the application for setting aside the *ex parte* order was filed after the completion of the respondent's evidence. It is submitted that the case now is at the stage of final arguments.
3. Learned counsel for the petitioner submits that the delay that would be occasioned by setting aside of the *ex parte* order can be compensated in terms of cost. Learned counsel for the petitioner submits that the petitioner shall file the reply to the respondent's application within a period of four weeks from today. It is further submitted that the petitioner be given only one opportunity for cross-examine the respondent's witness. It is further submitted that the petitioner would not seek any adjournment for the recording of the petitioner's evidence.

4. The writ petition is allowed and the impugned order dated 1st September, 2015 is set aside on the following conditions:

(i) The petitioner shall file the reply to the respondent's application within a period of four weeks from today with advance copy to counsel for the respondent.

(ii) The learned Labour Court shall grant only one opportunity to the petitioner to cross-examine the respondent's witness whose affidavit is on record.

(iii) The petitioner shall not seek any adjournment on the date when the learned Labour Court fixes the case for petitioner's evidence.

(iv) The petitioner shall also not seek any adjournment at the stage of arguments.

(v) Considering that the respondent is now settled in Australia and has come to India for his cross-examination, the petitioner shall pay cost of Rs.50,000/- to the respondent within four weeks.

5. The pending application is disposed of.

6. List before the Labour Court on 23rd January, 2017 when the Court shall fix the date for cross-examination of the respondent.

7. The record of the Labour Court be returned back forthwith.

8. Copy of this order be given *dasti* to counsel for the parties under the signature of the Court Master.

J.R. MIDHA, J.

DECEMBER 22, 2016

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