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

+ CM(M) 241/2016

AZAD (DECEASED) THR HIS LRS Petitioner
Through Mr.Ashwani Kumar Bali, Adv.

versus

PRAMOD & ORS Respondent
Through Mr.Pramod Kumar, Adv.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **10.02.2017**

By the present petition filed under Article 227 of the Constitution of India the petitioner seeks to impugn the order dated 10.8.2015 and 12.1.2016 by which the right of the petitioner/plaintiff to lead evidence was closed and subsequently the application filed by the petitioner for recall of order dated 10.8.2015 was also dismissed. On 10.8.2015, PE was closed as no witness was there. Thereafter the petitioner filed an application under section 151 CPC for recalling the order dated 10.8.2015. The trial court dismissed the same on 12.1.2016 holding that the grounds given do not inspire confidence.

Perusal of the application filed by the petitioner under section 151 CPC shows that the grounds given for not producing any evidence is that the counsel for the petitioner was busy in personal work from 6.7.2015 to 7.8.2015. He has also pointed out that 5 witnesses have already been examined. Learned counsel for the petitioner submits that this was the first occasion that the petitioner took an adjournment.

Learned counsel for the respondent submits that in case some costs

are imposed respondent would have no objection.

In view of the above, subject to payment of costs of Rs.2,000/- the petition is allowed. The petitioner is given an opportunity to lead the evidence on a date to be fixed by the trial court.

Petition and all pending applications stand disposed of

JAYANT NATH, J

FEBRUARY 10, 2017

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