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

+ CM(M) 279/2017 and CM Nos. 9474-75/2017

RAJIV ARORA

..... Petitioner

Through Mr.Ajit Singh Arora and Mr. J.K.
Sharma, Advocates

versus

ANIL JAIN

..... Respondent

Through

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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08.03.2017

1. The bone of contention is an order of the trial court dated 09.01.2017 appointing a Local Commissioner at a fee of Rs.35,000/- to examine the witnesses of the petitioner and burdening the petitioner with the entire cost of the local commission.
2. Learned counsel for the petitioner submits that on 09.09.2016 the trial court had for the first time directed the petitioner to file affidavit by way of evidence of DWs within 15 days. He submits that the case was transferred to a new court and on 08.11.2016, the case was heard by the present trial court for the first time. The trial court noting that no affidavit by way of evidence had been filed by the petitioner/defendant closed the evidence of the petitioner. The petitioner thereafter moved an application under Section 151 CPC for recall of the order dated 08.11.2016. The trial court allowed the application of the petitioner imposing a cost of Rs.5,000/- plus with the

condition that the entire evidence of the petitioner shall be recorded through a court commissioner expenses of which will be borne by the petitioner. It also noted that the petitioner/defendant has no objection to the same.

3. Learned counsel appearing for the petitioner submits that the petitioner is hard pressed for funds. He submits that only one witness is to be examined and the cost of Rs.35,000/- would be harsh on the petitioner.

4. It would be in the interest of justice that the petitioner is permitted to approach the trial court with an appropriate application pointing out the above submissions of the petitioner.

5. Granting leave and liberty to the petitioner to move an appropriate application before the trial court for modification of the order dated 09.01.2017, the present petition stands disposed of.

6. In case such an application is filed, the trial court is requested to consider the same as per law.

7. All pending applications also stand disposed of.

8. Dasti.

JAYANT NATH, J

MARCH 08, 2017

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