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

+ CM(M) 188/2017 and CM Nos. 6235-37/2017

M/S A S PRECISION MACHINES PVT LTD Petitioner
Through Mr.Manish Srivastava, Mr.Aditya
Gupta and Mr.Arav Kapoor, Advocates.

versus

ANIL KUMAR GUPTA Respondent
Through

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

ORDER
17.02.2017

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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 03.11.2016 by which its application filed under Order 1 Rule 10 CPC was dismissed.
2. The respondent has filed the suit for recovery against the petitioner for a sum of Rs.44,23,680/-. The petitioner has taken the plea that the petitioner was only the agent of M/s.Tecpro System ltd. and hence, cannot be liable being the agent of the said Company in view of the Contract Act. Hence, the application moved to implead the said Tecpro System Ltd. as a party.
3. After some arguments, learned counsel for the petitioner submits that certain observations have been made in the impugned order whereby it appears that the trial court has already come to a conclusion that the

petitioner has not pleaded that he has acted as an agent of the proposed defendant. He submits that this is entirely erroneous as in the written statement a pleading is raised that he has acted as an agent of the proposed party. He submits that he may be permitted to withdraw the present petition with a clarification that the observations made by the trial court would not bind the petitioner at the subsequent stage at the time of final adjudication of the suit.

4. The request of the learned counsel for the petitioner is allowed. The petition is dismissed as withdrawn with the clarification that the observations recorded by the court in the impugned order would not bind the parties at the time of final adjudication of the suit.

5. All pending applications also stand dismissed.

JAYANT NATH, J

FEBRUARY 17, 2017
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