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

+ CM(M) 725/2016, CM Nos.27230 & 27232/2016

M/S SCHINDLER INDIA PVT LTD Petitioner
Through Mr.Ajay Goel, Advocate

versus

M/S BMK HOSPITALITY SERVICES
PVT. LTD. & ANR. Respondents
Through Ms.Sharmistha Ghosh, Advocate

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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09.03.2017

1. By the present petition filed under Article 227 of the Constitution of India, the petitioner seek to impugn the order dated 30.05.2016 by which an application of the petitioner/defendant No.2 under Section 151 CPC for setting aside the earlier order dated 12.04.2016 was dismissed. By earlier order dated 12.04.2016 the right of the defendant No.2/petitioner to lead evidence was closed.
2. The present suit is filed by the respondents for permanent and mandatory injunction and for recovery of Rs.10 lacs in respect of lifts supplied by the defendants being not as per agreed terms.
3. On 17.11.2015, the evidence of the plaintiff/respondent No.1 was closed. The matter was adjourned to 06.01.2016. On 06.01.2016, the petitioner did not file any evidence but moved an application for substitution of their authorised representative. The application was allowed subject to

payment of cost of Rs.2,000/-. Time was given to lead evidence of the petitioner.

4. Subsequently, another application was filed to again substitute the authorised representative. It is stated that earlier authorised representative has been appointed on incorrect advice. It is urged that the proposed authorised representative, namely Sh.Vinod Kumar Solanki is familiar with the facts of the case and is more suitable to act as authorised representative. The trial court noting the conduct of the petitioner concluded that it was only a ploy to delay the proceedings and dismissed the application.

5. The learned counsel for respondent No.1 very fairly states that respondents have no objection to the application to substitute the authorised representative subject to payment of cost. She submits that there is a needless delay on the part of the petitioner and the earlier cost of Rs.2,000/- that was imposed on 06.01.2016 has not been paid.

6. Accordingly, the present petition is allowed subject to total cost of Rs.10,000/-. The petitioner is allowed to substitute his authorised representative with the new authorised representative Sh.Vinod Kumar Solanki. The petitioner may lead evidence on the date already fixed before the trial court on 18.05.2017.

7. It is made clear that the parties would not be allowed to seek adjournment on the date fixed for hearing before the trial court.

8. All the pending applications, if any, disposed of.

JAYANT NATH, J.

MARCH 09, 2017/v

