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

+ CM(M) 519/2017

**BIJLI APARTMENT RESIDENTS
WELFARE ASSOCIATION**

..... Petitioner

Through: Mr.Rajinder Mathur, Advocate.

versus

AMIT MASHRUWALA & ORS

..... Respondents

Through: Ms.Manpreet Kaur, Advocate for R-2.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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08.05.2017

CM No.17559/2017

1. Exemption allowed subject to all just exceptions.
2. Application is disposed of.

CM(M) No.519/2017

1. The instant petition under Article 227 of the Constitution of India has been filed by the petitioner impugning the order dated 11th April, 2017 whereby the learned Trial Court, while deferring the matter at the request of the petitioner/plaintiff, imposed a cost of Rs.10,000/-.
2. Mr.Rajinder Mathur, learned counsel for the petitioner submits that the instant petition has been filed by Bijli Apartment Residents Welfare Association through its president Smt.Kalpna Sahni. Smt.Kalpna Sahni is working as an officer in National Cadet Corps and as a part of her employment, she used to travel out of town on regular intervals. Learned

counsel for the petitioner further submits that on 11th April, 2017, when the impugned order was passed, the matter was listed before the learned Trial Court for plaintiffs' evidence and Smt.Kalpana Sahni was to appear as a witness. However, vide departmental orders, the travelling period of Ms.Kalpana Sahni, which was earlier 12th April, 2017 to 29th April, 2017, has been suddenly changed i.e. from 10th April, 2017 to 30th April, 2017. This fact was brought to the notice of learned Trial Court well in advance by filing an application dated 7th April, 2017 praying for deferring the matter after 30th April, 2017. Learned counsel for the petitioner submits that in the circumstances, non-appearance of Smt.Kalpana Sahni before the learned Trial Court on 11th April, 2017 was unintentional and bonafide despite that the learned Trial Court imposed a cost of Rs.10,000/- on the petitioner while deferring the matter to 9th May, 2017. Learned counsel for the petitioner has prayed for waiver/reduction of the cost of Rs.10,000/- imposed vide order dated 11th April, 2017.

3. Learned counsel appearing on behalf of respondent No.2/defendant No.2 though does not dispute the above fact but submit that it was not for the first time that the petitioner sought adjournment for leading evidence but the cost was imposed due to the pass conduct of the petitioner. However, she has no-objection if the cost is reduced.

4. In view of the submissions made by learned counsel for the petitioner and the no-objection given by learned counsel for the respondent No.2, the petition is allowed only to the extent that cost of Rs.10,000/- imposed by learned Trial Court vide order dated 11th April, 2017 is reduced to Rs.5000/- to be paid by the petitioner on or before the next date of hearing.

5. The petition stands disposed of in above terms.

6. A copy of this order be sent to the Court concerned for information and be also given dasti to learned counsel for the parties under the signature of Court Master.

CM No.17558/2017

Dismissed as infructuous.

PRATIBHA RANI, J.

MAY 08, 2017
'st'