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

+ **RC.REV. 7/2017**

M/S ASHOKA CHEMICALS (INDIA) Petitioner
Through Mr.Siddharth Dias & Mr.Puneet
Sharma, Advocates

versus

M/S BHARTIYA HINDU SHUDHI
SABHA TRUST (REGD Respondent
Through Ms.Rani Chhabra, Advocate

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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06.01.2017

CM No.418/2017(exemption)

Allowed subject to all just exceptions.

RC.REV. 7/2017 & CM No.417/2017(stay)

1. Notice. The learned counsel for the respondent enters appearance and accepts notice on behalf of the respondent.
2. The learned counsel appearing for the petitioner submits that on 31.08.2016, the matter was fixed before the ARC for argument on the application for leave to defend. However, an adjournment was sought on behalf of the petitioner/tenant as the main counsel was indisposed. The ARC heard the respondent on the application for leave to defend and granted opportunity to the petitioner's counsel to argue the matter at any date before the date fixed, i.e. 29.09.2006 with prior permission of the court and intimation to the other party.
3. It is the contention of the petitioner that when the counsel for the

petitioner enquired the matter, the court staff mentioned that the case has already been reserved for judgment and no argument would be permitted. He also points out that the contentions have not been considered i.e. that the respondent is seeking additional accommodation based on the expansion of activities, and this issue requires evidence. He also submits that one of the tenant whose shop is akin to that of the petitioner and whose tenancy has expired long time back, his tenancy has not been disturbed.

4. In my opinion, these issues would have to be gone to the ARC. Though the arguments of the petitioner that the counsel went to the court of the ARC and the court staff mentioned that the matter has already been reserved and no argument would be permitted, is not very convincing inasmuch as a categorical order has been passed by the court granting opportunity to the petitioner to argue the matter at any date after the advance intimation to the respondent. Instead of mentioning the matter to the court or filing an appropriate application, the petitioner seems to have merely interacted with court staff.

5. However, in the interest of justice, subject to payment of cost of Rs.7,500/-, the impugned order is quashed. The matter is remanded back to the ARC for a fresh consideration.

6. The petitioner will take no adjournment on the date that will be fixed for argument before the ARC. The ARC is requested to expeditiously hear and dispose of the matter.

7. The petition stands disposed of as above. Parties are directed to appear before the ARC on 02.02.2017.

JAYANT NATH, J.

JANUARY 06, 2017/v