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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 928/2017
UNITY AUTOMOBILES PVT LTD Petitioner
Through: Mr. Sunny Arora, Adv.
Versus
SWARAN KAUR Respondent
Through: None.

CORAM:
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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28.08.2017

CMs No.31136/2017 & 31137/2017 (both for exemption)

1. Allowed, subject to just exceptions.
2. The applications are disposed of.

CM(M) 928/2017 & CM No.31135/2017 (for stay)

3. This petition under Article 227 of the Constitution of India impugns the order [dated 24th July, 2017 in CS No.576020/2016 of the Court of District Judge, North-West District, Rohini Courts, Delhi] of dismissal of an application filed by the petitioner/plaintiff, at the stage of final arguments, to place on record a Certificate under Section 65B of the Indian Evidence Act, 1882 and to prove the said Certificate.
4. The counsel for the petitioner/plaintiff has argued that if the application is allowed, the respondent/defendant will suffer no prejudice.
5. Not only does a perusal of the order shows that the respondent/defendant opposed the application by filing a reply but even otherwise I have enquired from the counsel for the petitioner/plaintiff, whether not the advantage, which has accrued to the respondent/defendant from the petitioner/plaintiff not proving its document/s, be lost if the

petitioner/plaintiff is permitted to place on record and prove the Certificate and would not that be to the prejudice of the respondent/defendant.

6. No answer is forthcoming.

7. The only other contention of the counsel for the petitioner/plaintiff is that the same be permitted 'subject to costs'.

8. The law does not entitle the petitioner/plaintiff to buy time from the Court or to by paying consideration, undo its defaults. Costs are imposed only when the Courts find a case for condoning the default of a litigant to be made out and to compensate the other party therefor.

9. The learned District Judge in the present case has reasoned that the evidence of the petitioner/plaintiff was closed on 27th Mach, 2014 and the Certificate under Section 65B of the Evidence Act supra had been filed on 17th July, 2017 i.e. after the case was fixed for final arguments and that no reason whatsoever had been pleaded for the Certificate having not been filed earlier or for late filing thereof or for seeking an opportunity to prove the same at that stage. It was further reasoned that though the Certificate can be permitted to be filed subsequently, but only if the reason for the default is given and that in the present case none had been given.

10. There is no error in the impugned order requiring this Court to, in supervisory jurisdiction, intervene.

11. Dismissed.

No costs.

RAJIV SAHAI ENDLAW, J.

AUGUST 28, 2017

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