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

+ CM(M) 1117/2015

DELHI UNION OF JOURNALIST G/H SOCIETY ..... Petitioner  
Through: Mr.S.Chaturvedi, Advocate.

versus

RAMA MEHTA ..... Respondent  
Through: Mr.Sagar Chawla, Advocate.

**CORAM:**  
**HON'BLE MS. JUSTICE PRATIBHA RANI**

**ORDER**  
**25.05.2017**

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CM(M) 1117/2015

1. By way of this petition under Article 227 of Constitution of India, the petitioner is praying for setting aside the order dated 1<sup>st</sup> December, 2014 whereby the learned Trial Court dismissed the application filed by the petitioner under Order XXXIX Rules 1 & 2 of Code of Civil Procedure. Challenge has also been made to the order dated 18<sup>th</sup> May, 2015 whereby the appeal preferred by the appellant assailing the order dated 1<sup>st</sup> December, 2014 has been dismissed by the learned Appellate Court with cost of Rs.25,000/-.

2. Heard learned counsel for the parties.

3. Mr.S.Chaturvedi, learned counsel for the petitioner submits that the grievance of the petitioner shall be redressed if the cost imposed on the petitioner by the learned Appellate Court vide order dated 18<sup>th</sup> May, 2015 is waived. He further submits that since the order dismissing the application under Order XXXIX Rules 1 and 2 CPC is an appealable order, the

petitioner availed the legal remedy by filing MCA No. 2/15, the learned Appellate Court should not have burdened the petitioner with cost of Rs. 25,000/- for 'wasting the judicial time'.

4. Mr.S.Chaturvedi, learned counsel for the petitioner submits that the Appellate Court while dismissing the appeal has also made certain observations but has not recorded in the order that the observations were only for purpose of disposal of the appeal and will not tantamount to be a expressions on merits of the case. He further submits that this order by the Appellate Court may cause prejudice in the mind of Trial Court.

5. Mr. Sagar Chawla, learned counsel for the Respondent submits that he has no objection if the above two submissions are noted and allowed.

6. In view of the submissions made on behalf of the parties, the petition is allowed only to the extent that cost of Rs. 25,000/- imposed by the learned Appellate Court vide order dated 18<sup>th</sup> May, 2015 is waived.

7. Needless to state that the observations made by the learned Appellate Court while dismissing the appeal were made prima facie for disposal of the miscellaneous application, shall not be considered by the learned Trial Court to be an expression on the merits of the case.

8. Petition stands disposed of in above terms.

9. A copy of this order be sent to the Courts concerned for information and compliance and be also given dasti to learned counsel for the parties, as prayed.

CM No.26731/2015

Dismissed as infructuous.

**PRATIBHA RANI, J.**

**MAY 25, 2017/ 'st'**