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

+ C.R.P. 92/2016 & CM No. 22930/2016 (stay)

M/S QUICK LINK CARGO SERVICES Petitioner

Through: Mr. Sanjay Luthra & Mr. H.P.S.
Dhawan, Advs.

versus

M/S PARRAGON PUBLISHING INDIA PVT LTD Respondent

Through: Mr. Suhail Sehgal, Adv.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **18.01.2018**

The petitioner had instituted civil suit (suit no. 153/2015) against the respondent. It appears, on the report of the process server indicating delivery of the summons through a person named Virender on 21.08.2013, the respondent (the defendant) not having appeared, the trial Court set the respondent *ex-parte*. The respondent later moved an application under Order 9 Rule 7 of the Code of Civil Procedure, 1908 (CPC) read with Section 5 of Limitation Act, which application was allowed by order dated 11.02.2016 with costs of Rs. 5,000/-, liberty having been granted to the respondent/defendant to file written statement within a period of one month from the date of the said order.

The petition at hand takes exception to the said order setting aside the *ex-parte* proceedings, the prime contention being that the summons had

been duly served in terms of provisions contained in Order 29 (2) (b) CPC and that delay had not been properly explained and, therefore, the order is erroneous.

Though issues of maintainability of the revision petition against an order of above nature is also raised, this Court without going into the said issue finds no substance in the petition on merits. There is no clarity as to what was the connection of the person Virender with the respondent. The service of the summons was to be effected on the respondent, a company duly incorporated. It is well-settled that the service should have been first attempted on the Secretary or on the Director or other Principal of the Corporation [*Shalimar Rope Works Ltd. Vs. Abdul Hussain H.M. Hasanbhai Rassiwalla & Ors. AIR 1980 SC 1163; Rajesh Bansal vs. Ansal Housing Construction Ltd. AIR 2002 Delhi 214; Naresh Kumar Gupta vs. Nav Bharat Times Co-operative Group Housing Society Ltd. 1994 (28) DRJ 56; Datamation Consultation Pvt. Ltd Vs. Sh. Ranjit Kumar, decided on 25.03.2009 in WP (C) 2394/2006 and Sanjeev Kumar vs. Sweta Kumari, decided on 05.05.2010 in C.R.P. 85/2008*].

Be that as it may, the learned trial Judge having exercised the judicial discretion in favour of allowing the respondent/defendant to participate in the proceedings, this Court finds no good reasons to interfere in the exercise of the said discretion.

The petition and the pending application are dismissed.

R.K.GAUBA, J

JANUARY 18, 2018

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