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

+ CM(M) 973/2018

PRAVEEN KUMAR

..... Petitioner

Through: Mr. Madan Lal Sharma, Adv.

versus

JAGBIR DAHIYA & ORS

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE VINOD GOEL

ORDER

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25.10.2018

CM No.33898/2018 (exemption)

1. Allowed, subject to all just exceptions.
2. The application is disposed of.

CM(M) 973/2018 & CM No.33897/2018 (stay)

3. In this petition filed under Article 227 of the Constitution of India, the petitioner/defendant No.6 has challenged the order dated 31.05.2018 by which his application under Section 114 and Order 47 Rule 1 read with Section 151 CPC for review of the order dated 04.04.2018 was dismissed by the Court of learned Additional District Judge-02, Central Delhi (ADJ).

4. I have heard learned counsel for the petitioner. In the light of the fact that the petitioner has placed on record certified copies of the relevant order

sheets and for expeditious disposal of the civil suit, this Court deems it fit and expedient to dispense with the necessity of issuing notice to the respondents.

5. On 04.04.2018, PW1 was present in the Court since 10 am but none had appeared on behalf of the petitioner/defendant No.6 till 2.35 pm when Sh. Rishabh Yadav, proxy counsel for Sh. Amit Rana, Advocate for the petitioner appeared. Other defendants also did not come present. In the circumstances, the learned ADJ closed the right of the petitioner to cross examine PW1 and also proceeded other defendants *ex-parte*. The matter was adjourned for remaining plaintiff's evidence on 31.05.2018. On the next date of hearing, the petitioner/defendant No.6 filed an application under Section 114 and Order 47 Rule 1 read with Section 151 CPC for review of the order dated 04.04.2018. However, after hearing the arguments, learned ADJ declined to provide opportunity to the petitioner/defendant No.6 to cross examine PW1.

6. Learned counsel for the petitioner submits that on 04.04.2018, Sh. Amit Rana, Advocate, who was representing the petitioner before the Trial Court, was in personal difficulty on account of admission of his daughter. To show his *bona fide*, a copy of book-list issued by the G.D. Goenka Public School, Sector 22, Rohini, in favour of daughter of Sh. Amit Rana, bearing signatures of Sh. Amit Rana dated 04.04.2018 is placed on record.

7. In the circumstances, the petition is disposed of with the directions that the learned ADJ shall give only one opportunity to the petitioner/defendant No.6 to cross-examine the PW1 on the next date of

hearing subject to the payment of Rs.5,000/- as costs.

8. Order dasti under the signature of Court Master/Private Secretary.

OCTOBER 25, 2018
"sandeep"

VINOD GOEL, J.