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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 12/2016**
M/S SHRI SAI NATH ENTERPRISES & OTHERS Plaintiff
Through **Mr. Rajesh Gupta, Mr. Harpreet**
Singh & Mr. Pranjal Saran, Adv.

versus
NORTH DELHI MUNICIPAL CORPORATION & ANR
..... Defendant
Through **Mr. Mukesh Gupta & Mr. Vaibhav**
Sharma, Adv.

CORAM:

SHARAD GUPTA (DHJS), JOINT REGISTRAR (JUDICIAL)

ORDER

% 20.02.2019

IA No.2600/2019 u/S 151 CPC moved by defendant for waiving of cost

Learned counsel for plaintiff is present and accepts notice of the captioned IA. He also submits that he is opposing the captioned IA and shall directly argue upon the same.

Waiver of cost is sought on the ground that the concerned official Sh. Parmanand, A.O., under whose signature affidavit of admission/denial was filed, had got transferred on 17.09.2018 and thereafter the said post has been lying vacant. That part admission/denial was conducted by the defendant on 10.12.2018 and remaining admission/denial was deferred at request of proxy counsel for NDMC, who sought sometime to take instructions regarding the affidavit of admission/denial on the ground of some ambiguity therein. That on 22.01.2019, the main counsel for defendant was on his legs in another matter before the Hon'ble Court and proxy counsel

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had sought pass over upon which cost was imposed. Hence, waiver of cost is sought.

Learned counsel for plaintiff has argued that cost was imposed as adjournment was sought by the defendant even on 22.01.2019. That the plaintiff was also burdened with the same amount of cost on its failure to file admission/denial affidavit and on ground of parity cost cannot be waived. It is submitted that merely because the defendant is a department, it cannot be placed on a different footing.

Perusal of record shows that on 10.12.2018, remaining admission/denial was deferred on request of learned counsel appearing on behalf of defendant on the ground of some ambiguity in the admission/denial affidavit. Although it has been urged in the captioned IA that pass over was sought, even on 22.01.2019 a short adjournment had been sought and resultantly cost was imposed. It is also not the case of applicant that only Sh. Parmanand was conversant with the facts of the case.

To my mind, no ground for waiving of cost is made out and the captioned IA is accordingly dismissed and disposed off.

SHARAD GUPTA (DHJS)
JOINT REGISTRAR (JUDICIAL)

FEBRUARY 20, 2019/ab