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

+ CM(M) 475/2022 & CM No. 24439/2022

SH.PANNA LAL

..... Petitioner

Through: Mr.Gagan Preet Singh, Adv.

versus

BHAGMAL KATARIA & ANR.

..... Respondents

Through: Mr.Mukesh Gupta, SC-North
DMC with Mr.Raghav Gupta and
Mr.Mayank Ahuja, Advs. for R-North DMC

CORAM:

HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER

% **23.05.2022**

CM No.24439/2022 (exemption)

1. Exemption allowed subject to all just exceptions.
2. The application is allowed.

CM(M) 475/2022

3. The impugned order dismisses a restoration application filed by the petitioner. The petitioner contended, in the restoration application, that, on the date when he was absent for the hearing, the proceedings were taken up virtually and that he was unable to join the proceedings. The learned Senior Civil Judge, in passing the impugned order, has proceeded solely on the ground that, as per the dates of physical hearing, notified by this Court, the matter was taken up on physical hearing on 30th October, 2021 when the petitioner was absent.

4. The learned Senior Civil Judge has not found the petitioner to

be guilty of repeated absence. The application for restoration has been dismissed on the sole ground that the matter was listed on 30th October, 2021 for physical hearing and not for virtual hearing.

5. In my considered opinion, the learned SCJ could have granted one more opportunity to the petitioner, rather than dismissing the petitioner's application for restoration. It is well settled that restoration applications are to be dealt with liberally, as the right to represent ones' cause before a Court is a fundamental right.

6. There is no appearance on behalf of Respondent 1. Respondent 2 is represented by Mr. Mukesh Gupta who submits that he is only a proforma party and is not concerned with the *lis*.

7. In view thereof, as the issue in controversy is short, issue notice, returnable on 3rd June, 2022. Mr. Gupta accepts notice on behalf of Respondent 2. Let notice be issued to Respondent 1 by all modes including *dasti* as well as through learned Counsel who appeared on behalf of Respondent 1 before the learned SCJ, if any.

8. Given the nature of the petition, I do not deem it necessary to call for any formal response.

9. Re-notify on 3rd June, 2022.

C.HARI SHANKAR, J

MAY 23, 2022/kr