

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

+ **Date of decision : 26.03.2008**

% **WP(C) No.2798/2006**

M/s.Saraswati Trading Co. Petitioner
Through: Mr.Satinder Verma, Advocate.

Versus

Jai Prakash Singh & Anr. Respondents
Through: Mr.Jai Prakash Singh, respondent
No.1 in person.

CORAM :-

HON'BLE MR. JUSTICE ANIL KUMAR

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| 1. Whether reporters of Local papers may be allowed to see the judgment? | YES |
| 2. To be referred to the reporter or not? | NO |
| 3. Whether the judgment should be reported in the Digest? | NO |

ANIL KUMAR, J.

1. This is a petition by the management seeking quashing of warrants of arrest/recovery dated 29th December, 2005 issued pursuant to an ex-parte award dated 22nd February, 2003.

2. The learned counsel for the petitioner contends that an application under Order 9 Rule 13 for setting aside the ex-parte award has already been filed along with an application for stay before the Labour Court, however, since there was no presiding officer the applications were not considered and consequently, the present writ petition was filed.

3. In the present writ petition the operation of the ex-parte award dated 22nd February, 2003 and the proceedings seeking implementation thereof were stayed by order dated 28th February, 2006.

4. The workman is present in person and he states that he has not been able to engage a lawyer, however, he does not oppose consideration of the application of the petitioner under Order 9 Rule 13 of the Code of Civil Procedure and his application for stay by the Labour Court.

5. The learned counsel for the petitioner contends that now the presiding officer in Labour Court-III, Karkardooma Courts, Delhi is available and the applications for setting aside the ex-parte award and for stay can be considered by the Labor Court. He states that the writ petition was filed as there was no presiding officer and his applications were not being considered.

6. In the facts and circumstances, the writ petition is disposed of with the direction to the concerned Labour Court-III, Karkardooma Courts, New Delhi to consider the applications of the petitioner under Order 9 Rule 13 read with Section 151 of the Code of Civil Procedure and the application of the petitioner for interim stay. In the circumstances the parties are directed to appear before the Labour

Court-III on 10th April, 2008 when the matter is stated to be listed. The interim order dated 28th February, 2006 shall continue till 10th April, 2008. Thereafter the trial Court will decide whether the petitioner is entitled for stay of award and stay of the execution proceedings initiated against the petitioner or not. All the pending applications are also disposed of.

Dasti to the parties.

March 26th 2008
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ANIL KUMAR, J.