

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C.) No. 11866/2009 and C.M. No. 11994/2009 (for stay)**
% **Date of Decision: 26th OCTOBER,2009**

SHRI KISHAN CHANDER RAI PETITIONER
! Through: Mr. M.N. Singh, Advocate.

VERSUS

\$ M/S KHOSLA AUTOMOTIVE PVT. LTD. RESPONDENT
^ Through: Mr. Anil Kumar Hajelay, Advocate.

CORAM:
Hon'ble MR. JUSTICE S.N. AGGARWAL

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

S.N.AGGARWAL, J (ORAL)

Mr. Anil Kumar Hajelay, learned counsel appearing on behalf of the respondent management, says that he does not want to file any response to this writ petition.

2. This writ petition is taken up for final disposal with the consent of counsel for both the parties at this stage because counsel for both the parties have agreed for passing of a consent order in the matter.
3. This writ petition under Articles 226 & 227 of the Constitution filed by the workman is directed against an interim order of the Labour Court dated 18.05.2009 closing his opportunity to cross examine the witness of the management. The workman has also challenged an order of the Labour Court dated 13.08.2009 by which his application for recall of order dated 18.05.2009 has been dismissed.
4. On the date, i.e., on 18.05.2009, when the opportunity of the

workman to cross examine the witness of the management was closed, a request for an adjournment was made on behalf of the workman before the Labour Court to cross examine the management's witness present on that day on the ground of sickness of the authorised representative of the workman. The Labour Court closed the opportunity of the workman to cross examine the management's witness on the ground that proof of sickness of the authorised representative of the workman was not placed before the Labour Court on that day.

5. This approach adopted by the Court below appears to be hyper-technical and is opposed to the principles of natural justice. The workman belongs to a weaker section of the society. In case, an adjournment was sought on behalf of the workman on the ground of the illness of his authorised representative, the Court below ought to have accommodated the said request and given an opportunity to the workman to cross examine the management's witness on the next date. It was not a case where the workman had been delaying the proceedings pending before the Labour Court by adopting the dilatory tactics. There is no such discussion in the impugned order to show that the workman had been asking for adjournment on the same ground even in the past.

6. Mr. Anil Kumar Hajelay, learned counsel appearing on behalf of the respondent management, on instructions from his client, says that an opportunity may be given to the workman to cross examine the witness of the management on a date to be fixed by the Labour Court for the purpose. The respondent will produce its witness before the Labour court for his cross examination by the authorised representative of the workman on the date to be fixed by the Labour Court for this purpose.

7. In view of the above and having regard to the facts of the case, the impugned orders are hereby set aside. The Court below is directed to

give an opportunity to the petitioner workman for cross examining the witnesses of the respondent management on such date(s) as may be fixed by the Labour Court for the said purpose.

8. The case now before the Labour Court is stated to be listed on 30.10.2009. The parties are directed to appear before the Labour Court on that date for getting a date for cross examination of the respondent management's witnesses.

9. A copy of this order be sent to the Court below for information and necessary compliance.

10. The application for stay being C.M. No. 11994/2009 is rendered infructuous.

OCTOBER 26, 2009
'BSR '

S.N.AGGARWAL, J