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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Order: January 25, 2010

+ CM(M) 100/2010
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25.01.2010

Amit Govil

Through: Mr.Sahijpal, Advocate

...Petitioner

Versus

Sapient Corporation Private Limited & Anr.

Through:

...Respondent

JUSTICE SHIV NARAYAN DHINGRA

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporter or not?
3. Whether judgment should be reported in Digest?

ORAL

1. By this petition, the petitioner has assailed an order dated 22nd October, 2009 passed by learned trial court whereby the trial court dismissed the application of the plaintiff (petitioner herein) for adjournment.

2. When the matter was fixed on 22nd October 2009, neither plaintiff nor counsel for plaintiff appeared though the matter was fixed for plaintiff's evidence. No witness of plaintiff was even present on the date fixed for evidence. An application for adjournment was made by proxy counsel for the plaintiff on the ground that the counsel was busy on account of elections of Delhi High Court Bar Association and on account of a strike being declared by the Delhi Bar Association. The learned trial court considered that this was no ground for giving adjournment.

3. A perusal of record would show that when the matter was fixed on 5th October, 2009, witness of plaintiff were not present and only proxy counsel for plaintiff was present and an adjournment was sought on the ground that the counsel for plaintiff was out of station. The witness was only to be cross examined by the

defendant counsel. Even if counsel for plaintiff was out of station, the witness could have appeared for his cross examination but no witness was produced on that date and a plea was taken that witness did not feel secure in absence of his counsel. However, despite this frivolous excuse, the court adjourned the matter to 22nd October 2009. Again on 22nd October 2009, counsel for plaintiff did not appear and a plea of busyness and bar elections and strike was taken. In the bar elections, the counsel had only to cast his vote and it is hardly a ground for adjournment. Neither the strike is a ground for adjournment. It has been time and again ruled that strike is not a ground for adjournment. The Courts are not on strike when the advocates go on strike. The Courts have to function normally and the Judges have to discharge their duties as per law. If an advocate goes on strike, he should return the brief to his client along with the fees prior to the date of strike so that the client could engage someone else as his advocate who was prepared to appear and conduct the case. In the present case, the advocate did not return the brief.

4. I consider that the learned trial court rightly dismissed the adjournment application. I find no ground to entertain this petition. The petition is hereby dismissed. No orders as to costs.

January 25, 2010
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SHIV NARAYAN DHINGRA J.