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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Reserve: February 01, 2009
Date of Order: February 08, 2010

+ CM(M) 926/2009

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Dev Kumari

Through: Mr. Vishal Mahajan, Advocate

08.02.2010

...Petitioner

Versus

Praveen Kumar & Ors.

Through:

...Respondents

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?

JUDGMENT

1. By way of present petition, the petitioner has assailed an order dated 28th May, 2009 passed by learned trial court whereby the right of the petitioner to file written statement was closed.

2. The petitioner herein is the defendant in a suit pending before the trial court filed in 1999. The petitioner put appearance soon after filing of the suit however did not file written statement and the matter went on because of pendency of several application made by plaintiff or defendant. However, the learned trial court listed the matter on 4th July 2008 for admission/denial and for framing of issues. Still defendant (petitioner herein) did not file written statement. On 23rd July 2008 when the matter came up before Court, it was observed by the trial court that the written statement had not been filed by defendant in this case and gave opportunity to file the same. However, the petitioner did not file written statement. On 4th April 2009, the petitioner's counsel appeared in the Court and told the trial court that the written statement was ready and he would be filing the written statement during the course of day. The trial court still allowed the petitioner to file written statement during the course of the day and listed the case

for 28th May, 2009 for framing of issues etc. The petitioner however did not file written statement on 4th April 2009 and that is why on 28th May 2009, the trial court closed the right of the petitioner of filing written statement.

3. The petitioner has assailed this order of the trial court. The plea taken by the petitioner is that the petitioner could not file written statement on that day because the petitioner's counsel suddenly had to leave the court after receiving information about illness of his wife. I think this contention is untenable. The petitioner was served about nine years back. During those nine years, the petitioner did not file written statement but still the trial court gave one more opportunity to the petitioner to file the written statement by 4th April, 2009. On 4th April, 2009 since the petitioner had told the court that the written statement was ready and the trial court allowed filing of it on same day. It was still not filed. I consider that if the written statement had been ready, the same could be handed over to the court then and there. It only seems that the whole effort of the petitioner had been to drag the case. The petitioner did not file written statement for nine years and even when the matter was listed for admission/ denial and for framing of issues. The right to file written statement of the petitioner was rightly closed by the learned trial court. I find no merits in this petition. The petition is hereby dismissed with no orders as to costs.

February 08, 2010
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SHIV NARAYAN DHINGRA J.