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

Date of decision: 3rd February, 2015

+ **CM (M) 93/2015**

MAHMOOD ALI KHAN & ANR. Petitioners

Through: Mr. Rajiv Ranjan Dwivedi, Adv.

versus

ARUN KUMAR SINGH & ORS. Respondents

Through: Mr. Manish Kaushik, Adv. for
Mr. K.L. Nandwani, Adv. for R-3.

CORAM:

HON'BLE MR. JUSTICE G.P.MITTAL

G. P. MITTAL, J. (ORAL)

CM (M) 93/2015 and CM APPL.1947/2015 (stay)

1. Notice.
2. Mr. Manish Kaushik, Advocate appearing for Respondent no.3 accets notice.
3. The Petitioners challenge the legality of the order dated 20.12.2014 whereby the evidence of the Petitioners was closed and it was directed that the application for summoning of the witnesses is not tenable.
4. The grievance of the Petitioners is that although their application dated 11.04.2014 to summon the witnesses was allowed, but their evidence was wrongly closed by an order dated 20.12.2014. Further, the

grievance is that it was directed that the Petitioners shall not be entitled to interest from 14.07.2014 till further orders. Order dated 20.12.2014 is extracted hereunder:-

“Petitioner again seeks adjournment for maintainability of the application dated 14.07.2014. Since the evidence of petitioner was already closed, the application for summoning the witness is not tenable, hence, it is dismissed.

Put up for entire RE on 26.02.2015.

The petitioner is not entitled for the interest for the period from 14.07.2014 to till further orders.”

5. Although, copy of the order dated 20.12.2014 has not been placed on record, however, the learned counsel for the Petitioners has shown me copy of the order dated 24.05.2014 which reveals that by an order dated 22.03.2014, the evidence of the Petitioners was closed.
6. From the undated application whereon the order dated 11.04.2014 was passed, it is evident that SI Karamveer, PS Shakarpur and Dr. B.N. Acharya were permitted to be summoned by the Claims Tribunal. By a subsequent order dated 15.07.2014 also, the witnesses were again ordered to be summoned. It is quite strange that although the Claims Tribunal had closed the Petitioners' evidence by an order dated 22.03.2014, yet by a non-speaking order, the witnesses were ordered to be summoned on 11.04.2014. Not only this, subsequently,

on 15.07.2014, the witnesses as mentioned in the application for summoning witnesses were again ordered to be summoned. Order dated 15.07.2014 reads as under:-

“15.07.2014

File taken up on an application moved on behalf of the Petitioner.

Present: Sh. Rajiv Ranjan Dwivedi, Counsel for petitioner.

He request for issuance of summons to the witnesses as sited there under.

In view of the reasons explained by the ld. Counsel, the application stands allowed. The witnesses sited in the application be summoned on taking requisite steps for date fixed.”

7. In view of the order dated 11.04.2014 passed on the undated application for summoning witnesses and the order dated 15.07.2014 passed on the application dated 14.07.2014, order dated 20.12.2014 was not called for.
8. The Claims Tribunal fell in grave error in closing the evidence of the Petitioners by an order dated 20.12.2014; the same therefore, has to be set aside.
9. I order accordingly.

10. It goes without saying that consequently, the order of the Petitioners being not entitled to interest w.e.f. 14.04.2014 is also set aside.
11. The next date before the Claims Tribunal is stated to be 26.02.2015. Since these are official witnesses, the Claims Tribunal shall ensure attendance of the witnesses by issuing process, as may be required.
12. The petition is disposed of in above terms.
13. Copy of the order be given *Dasti* to the learned counsel for the parties.
14. Pending application also stands disposed of.

(G.P. MITTAL)
JUDGE

FEBRUARY 03, 2015
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