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

+ **W.P.(C) 2758/2013**

BRAHM SINGH

..... Petitioner

Through Mr. Naveen Raheja & Ms. Madhuri
Yadav, Advocates

versus

MANAGEMENT, M/S THE HINDUSTAN TIMES

LTD. & ANR.

..... Respondents

Through Mr. Rajeshkhar Rao & Ms. Meghna
Mishra, Advocates

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% 29.08.2017

RP No. 291/2015

The writ petition was disposed of vide order dated 13.2.2015 in view of the fact that the joint application under Order XXIII Rule 3 CPC, 1908, as amended was allowed in terms of the memorandum of settlement dated 22.1.2015 (Annexure-A).

The matter has been taken up on Review Petition No.291/2015 under Section 47 read with Section 114 and 151 CPC. This review petition has been filed on behalf of the applicant/petitioner supported with his affidavit dated 19.5.2015 whereby the applicant/petitioner submits to the effect that in fact the settlement agreed upon between the petitioner and the respondent No.1 was that a sum of Rs.7.00 lakhs was to be paid to him by the respondent no. 1 out of which Rs.2.00 lakhs was to be paid initially on 21.1.2015 and the balance

payment of Rs.5.00 lakhs was to be paid in Court on 10.2.2015, but only an amount of Rs.2.00 lakhs was paid and that the petitioner has been deceived by the respondent No.1. The petitioner has submitted that on 10.2.2015 he was not in contact with his counsel and that he had independently filed his affidavit dated 10.2.2015 before the Court stating his grievances. The said affidavit of the applicant/petitioner dated 10.2.2015 is on the record and is indicated to have been filed on 10.2.2015 vide diary No.67466 vide which the petitioner sought an order that the management be directed to stick to its promise and arrange to pay to him the balance sum of Rs.5.00 lakhs and that an order be also passed to grant him the full back wages with effect from 3.10.2004 to 30.6.2010 accrued on account of pay and allowances, service gratuity, encashment of leave, annual medical allowances, leave travel allowances, clothing allowances, annual production bonus, life insurance lump sum, retirement benefits, employee provident fund subscription, management shares and all other entitlements including wage board arrears w.e.f. 1.1.2008 to 30.6.2010 as 30% of interim relief. The applicant petitioner also prays that the amount of Rs.2.00 lakhs paid to him by the management on 22.1.2015 may be adjusted towards his entitlements and in case the management did not pay him the balance sum of Rs.5.00 lakhs as per the settlement then the Court may direct the management to pay the balance amount of Rs.5.00 lakhs at the earliest.

The proceedings dated 22.1.2015 indicate that the petitioner was present in person and so was the learned counsel for respondent No.1 and time was sought on behalf of respondent No.1 submitting

that the settlement talks were going on and a short adjournment was sought. Likewise the petitioner who was present in person on 22.1.2015 also stated that talks of settlement were in progress and the matter be renotified on 10.2.105.

As per the order dated on 10.2.2015 the petitioner is not indicated to have been present in person and was represented by his counsel and so was the respondent No.1 represented through its counsel when both the counsel for the petitioner and respondent No.1 submitted that the matter had been settled and sought time to file a joint application under Order XXIII Rule 3 CPC and the matter was thus renotified for 9.3.2015 but was then taken up on CM No.2587/2015 under Order XXIII Rule 3 CPC on the date 13.2.2015.

The said application CM No.2587/2015 under Order XXIII Rule 3 CPC read with Section 151 CPC filed on 12.2.2015 vide diary No.67344, is found to be placed on record accompanied with the affidavit of Shri Avik Basu, an employee with the respondent No.1, previously posted as General Manager since 1.12.2005 and currently posted as Assistant Vice President -HR as per the affidavit dated 10.2.2015. There is no affidavit of the petitioner in support of this application dated 10.2.2015 which is also not signed by the petitioner and the same is indicated to have been signed by his learned counsel and along with the said application annexed thereto as annexure-A is the memorandum of settlement dated 22.1.2015 bearing on it the signatures of the counsel for the petitioner, signatures of the petitioner, signatures of the counsel for respondent No.1 and Mr. Avik Basu, Assistant Vice President-Human Resource on behalf of

respondent No.1.

Along with the said memorandum of settlement as also annexed as annexure-A dated 22.1.2015, is a photocopy of the cheque bearing No.01530 dated 22.1.2015 in favour of the petitioner for a sum of Rs.2,00,000/- drawn on the Kotak Mahindra Bank, K.G. Marg, New Delhi along with a receipt signed by the petitioner of having received the sum of Rs.2.00 lakhs through the said cheque dated 22.1.2015 as full and final settlement towards all his claims against the management arising out of the award dated 23.1.2012 passed in ID No.207/10/2005 along with a copy of his identity card.

Through the affidavit that has been filed by the petitioner also on 10.2.2015 which he had filed in person, vide paragraph 4 thereof it has been stated by him that the matter between him and Mr. Rakesh Gautam of HT Management had been discussed at length and had been finalized and the management's representative had agreed to settle the matter by paying a sum of Rs.7.00 lakhs to the petitioner and payment had to be made in instalments i.e. Rs.2.00 lakhs to be paid on 22.1.2015 and the balance of Rs.5.00 lakhs to be paid on or before 10.2.2015 in the Court on the next date of hearing of the case, but that as per the proposed memorandum of settlement dated 22.1.2015 only Rs.2.00 lakhs were paid by the management of the outstanding dues from 3.10.2004 to 30.6.2010 as against that promised by the management during the settlement on 22.1.2015.

Taking into account the factum that the application under Order XXII Rule 3 CPC dated 10.2.2015 has not been signed by the petitioner/applicant nor is supported with any affidavit of the

applicant/petitioner, coupled with the factum that placed on record on the date 10.2.2015 is the affidavit filed by the petitioner repudiating the terms of the settlement stated in the settlement agreement dated 22.1.2015 and which application under Order XXIII Rule 3 CPC dated 10.2.2015 was considered on 13.2.2015 when the affidavit of the petitioner/applicant repudiating the settlement had already come on record on 10.02.2015 before proceeding further, the petitioner is directed to deposit the sum of Rs.2.00 lakhs received by him vide cheque No.015034 dated 22.1.2015 drawn on the Kotak Mahindra Bank, in the name of the Registrar General , High Court of Delhi within two weeks which amount shall be released to the respondent No.1 whereafter the review petition shall be taken up for consideration.

The review petition be renotified on 1.11.2017 at 2.30 p.m.

ANU MALHOTRA, J

AUGUST 29, 2017

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