

9# and 10# \$~

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

+ **CM(M) 245/2015 and CM No. 5203/2015 (Stay)**

NATIONAL FILM DEVELOPMENT CORP LTD..... Petitioner

Through: **Mr. Prashant Katara, Advocate.**

versus

ACHLA SABHARWAL & ANR Respondents

Through: **Mr. Baljeet Singh, Advocate with
Respondent No. 1 in person.**

+ **CM(M) 247/2015 and CM No. 5207/2015 (stay)**

NATIONAL FILM DEVELOPMENT CORPORATION..... Petitioner

Through: **Mr. Prashant Katara, Advocate.**

versus

ACHLA SABHARWAL & ANR Respondents

Through: **Mr. Baljeet Singh, Advocate with
Respondent No. 1 in person.**

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

%

28.04.2015

1. Respondent No. 1 is present in Court, however, the arguing counsel is not present despite giving pass-over.
2. Impugned orders dated 18th November, 2014 are challenged by the Petitioner only to the extent of imposition of cost of Rs. 25,000/- whereby the applications of the Defendant No. 1/Petitioner under Order 9 Rule 7 CPC read with Section 5 of the Limitation Act were allowed, subject to cost of **CM(M) 245/2015**

Page 1 of 3

Rs.25,000/- in each matter.

3. The grievance of the Petitioner is that repeatedly cost had been imposed on the Petitioner, that is, vide order dated 2nd July, 2014 for a sum of Rs.2,500/-, vide order dated 2nd August, 2014 a sum of Rs.10,000/-, vide impugned order a sum of Rs.25,000/- and then by the order dated 1st January, 2015 a sum of Rs. 2,500/-.

4. A perusal of the order sheet would reveal that the Petitioner who is the Defendant No. 1 in the two suits filed, that is, Suit No. 468/2012 and 469/2012 had been proceeded ex-parte on 28th February, 2014. On 2nd July, 2014 a cost of Rs.2,500/- was imposed as the main counsel for the Petitioner Mr. Prashant Katara who had been recently engaged could not appear due to demise of the grandmother and thus adjourned to 2nd August, 2014 a cost of Rs. 2,500/- was imposed. The said cost of Rs.2,500/- was paid on 2nd August, 2014 when the Petitioner's counsel was present however, he again sought an adjournment to file his vakalatnama and application for setting aside the order proceeding the Defendant No. 1 ex-parte. Thus again a cost of Rs.10,000/- was imposed for delaying the matter. The said cost was paid by the Petitioner on 6th September, 2014. Vide the impugned order the compensatory cost was paid to the Respondent No. 1 of Rs.25,000/- each as there was a delay in filing the applications under Order 9 Rule 7 CPC which was condoned and the said applications were also allowed.

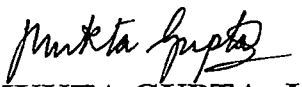
5. As noted above for the delay caused cost had already been imposed by the learned Trial Court vide orders dated 2nd July, 2014 and 2nd August, 2014. If opportunity for filing an application had not been granted on 2nd August, 2014 subject to cost the Court would have been justified in levying

/

the cost again vide the impugned order. However, the cost having already been imposed and the same having been handed over, the Court could not have imposed the cost a second time.

6. Consequently, the impugned orders are modified to the extent that the cost of Rs. 25,000/- each imposed on the Petitioner is waived.

7. Petition and application are disposed of.


MUKTA GUPTA, J.

APRIL 28, 2015

'vn'