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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) No.676/2016, CMs No.24914/2016 (for stay), 31359/2017 (u/O
V R-20 CPC) and CM No.34697/2017 (for waiver of costs).
HEMANT JAIN Petitioner

Through: Mr. Rakesh C. Aggarwal, Adv.

versus

SIDHARTH JAJU & ORS Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **21.09.2017**

1. This petition under Article 227 of the Constitution of India impugns the order (dated 18th February, 2016 in M.A. No.47647/15 of the Court of Additional District Judge (North-East)-01, Karkardooma Courts, Delhi) of dismissal of the application filed by the petitioner for review of the order (dated 14th October, 2014 in CS No.323/12 of the Court of Additional District Judge-1 (North-East) District, Karkardoom Courts, Delhi) disposing of the suit filed by the petitioner by allowing the application of the respondents under Section 8 of the Arbitration and Conciliation Act, 1996.

2. The petition was entertained and notice thereof ordered to be issued.

3. The respondents remain unserved till now.

4. When the matter came up on 29th August, 2017, being of the *prima facie* view that a petition under Article 227 of the Constitution of India does not lie against an order of dismissal of review and without challenging the order of which review was sought, it was enquired so from the counsel for the petitioner and attention of the counsel for the petitioner was also invited to judgment

dated 26th July, 2017 in CM(M) No.784/2017 titled *Asha Saini Vs. Omaxe Ltd.*; on request of the counsel for the petitioner, the matter was adjourned to 7th September, 2017; on 7th September, 2017, none appeared for the petitioner and an adjournment slip had been circulated and the matter was posted to 14th September, 2017; on 14th September, 2017 again adjournment was sought on behalf of the petitioner contending that the arguing counsel for the petitioner was before the Bombay High Court; observing, that that was no ground for adjournment, the matter was posted for today subject to the petitioner depositing conditional costs of Rs.10,000/- with Delhi High Court Bar Association Lawyers' Social Security and Welfare Fund, New Delhi.

5. The petitioner has not deposited the costs and has filed CM No.34697/2017 for waiver of costs. The counsel for the petitioner states that he had prior commitment in four matters in the Bombay High Court.

6. Once this Court had considered the matter and granted short date on the request of the counsel for the petitioner, no such adjournments can be granted. The counsel for the petitioner was still accommodated though subject to costs.

7. Supreme Court recently in *Gayathri Vs. M. Girish* (2016) 14 SCC 142 has held that advocates appearing for litigants owe an institutional responsibility to not seek adjournments on such grounds and to help the Courts in improving the judicial system by contributing to the expeditious disposal of the cases before the Court. The approach, of showing no concern for Court proceedings and in an adamant, brazen and obtrusive manner delaying Court proceedings was condemned and it was held that law and professional ethics do not permit such practise. Such acts, were held to be against the majesty of law

and amounting to colossal insult to justice and to concept of speedy disposal of civil litigation.

8. Thus, no ground for waiver of costs is made out. CM No.34697/2017 is dismissed.

9. The counsel for the petitioner when asked to argue, states that he has left his file in the Chamber and seeks passover.

10. Anyone going through the cause list of this Bench and having experience of the last three months would know that this Bench is unable to exhaust the cause list, what to talk of taking up cases on passover. Passover is thus but a guise for adjournment. Moreover, the question on which the counsel for the petitioner is to address, is a legal question and does not require the counsel, if has prepared the said legal question, to have his file.

11. Though the counsel for the petitioner states that “he has found a judgment” but is unable to state what is held therein.

12. I have since 29th August, 2017, come across the judgment of the Supreme Court in ***Land Acquisition Officer, Andhra Pradesh Vs. Ravi Santosh Reddy*** (2016) 14 SCC 238 though in the context of a Revision Petition under Section 115 of the CPC, holding that a Revision Petition does not lie against an order seeking recall of an earlier order, without challenging the order of which recall was sought.

13. In the present petition also, no challenge to the order dated 14th October, 2014 of which review was sought and which has been declined vide the impugned order, has been made.

14. Thus the said dicta of the Supreme Court squarely applies and in

accordance therewith, this petition has to be dismissed as not maintainable.

15. Dismissed.

16. The counsel for the petitioner states that he be permitted to revive his RFA earlier preferred.

17. I cannot comment on that aspect. All that can be observed is that if the petitioner has any remedies, the petitioner would be entitled to take the same in accordance with law but on the condition of the petitioner along with such remedy, files a copy of this order and proof of deposit of costs.

RAJIV SAHAI ENDLAW, J

SEPTEMBER 21, 2017

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