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

+ **W.P.(C) 5054/2017**

SURESH ENGINEERING WORKS & ANR Petitioners

Through: Mr. Birendra Mishra with Ms.
Poonam, Advocate

versus

**EMPLOYEES STATE INSURANCE CORPORATION
& ANR** Respondents

Through: Mr. V K Singh, Mr. Ajit Kumar,
Advocate & Mr. Manogya Singh,
Advocates

CORAM:

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

% **14.12.2017**

CM No. 33716/2017

In view of the cause submitted in the application, the delay in filing of counter affidavit by respondent No.3 is condoned. The application is disposed of. Counter affidavit by respondent no. 3 is taken on the record.

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Learned counsel for the respondent no.2 submitted that the alternative remedy is available to the petitioner against the impugned order dated 04.06.2004 on the basis whereof the attachment order was issued, hence, the present writ petition is not maintainable.

Learned counsel for the respondent no.2 submitted that the petitioner ought to have approached the Employees Insurance Court

under Section 75 of the Employees State Insurance Act, 1948 against the impugned order dated 4.6.2004, which is competent and is having the jurisdiction to hear the matter against the impugned order dated 04.06.2004. However, the petitioner has not challenged the same before the Competent Court and has directly come to this Court.

Learned counsel for the petitioner after some arguments submitted that he may be allowed to withdraw the present petition with the liberty to approach the Employees Insurance Court under Section 75 of the Employees State Insurance Act, 1948. The time consumed in pursuing the present writ petition be ordered to be excluded in computing the limitation.

In view of the submissions of the counsel for the parties, the present writ petition is dismissed as withdrawn with liberty to the petitioner to file a petition under Section 75 of the Employees State Insurance Act, 1948, against the impugned order dated 04.06.2004.

The Employees Insurance Court may exclude the period in pursuing the present writ petition herein before this Court while computing the period of limitation.

The petition is accordingly dismissed as withdrawn.

The parties are left to bear their own costs.

CHANDER SHEKHAR, J.

DECEMBER 14, 2017/P