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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on:- 11th January, 2018

+ CM(M) 470/2017

J. P. JAIN

..... Petitioner

Through: Petitioner in person.

versus

MANOHAR LAL JAIN & ANR

..... Respondents

Through: Mr. Shyam Singh Sisodia, Advocate

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The petitioner was the counsel for the plaintiff in civil suit No.106/2004 instituted in the Court of Civil Judge for and on behalf of the Society called Jain Sadhvi Panna Charitable Society. The suit for possession and mandatory injunction was eventually withdrawn and dismissed accordingly with costs of Rs.5,000/- to be paid to the defendants by order dated 30.11.2005 by the Civil Judge. By the said order, the Civil Judge had also considered an application under Order 47 Rule 1 of the Code of Civil Procedure, 1908 (CPC) which was found to be frivolous and, thus, dismissed with costs of Rs.1,000/- to be deposited by the plaintiff/applicant in the Prime Minister's Relief Fund.

2. The statement on the basis of which the suit was dismissed as withdrawn as said above was made by the petitioner herein, his particulars having been recorded in that part of the proceedings by the Civil Judge indicating him to be the plaintiff in the suit which was factually incorrect. The petitioner was only the counsel for the plaintiff of the suit and not himself the plaintiff.

3. The defendants of the suit took out execution proceedings, statedly nine years after the dismissal of the suit, to enforce recovery of costs. It appears, in the course of the said proceedings they wanted to proceed against the petitioner, he being the counsel for the plaintiff, in his individual capacity. It appears that after the prolonged proceedings the Civil Judge eventually held that the costs could not be recovered from the counsel. The matter statedly rests there.

4. But, the petitioner remains not satisfied. He filed an application under Section 340 of the Code of Criminal Procedure, 1973 (Cr.P.C.) seeking criminal action to be initiated on the ground that he had been illegally and unlawfully made judgment debtor in the execution proceedings. This application remained pending for quite some time on the file of the Civil Judge. It was dismissed in default by order dated 31.07.2015. The petitioner, thereafter moved an application seeking its restoration, which application was found to be time barred and, therefore, dismissed. He then moved miscellaneous civil appeal before the Additional District Judge which was also dismissed.

5. It is the aforesaid order in appeal which is sought to be challenged by the petition at hand.

6. To say the least, this Court finds petty issues being unnecessarily prolonged and protracted just for sadistic pleasure. In the given facts and circumstances, even if the application under Section 340 Cr.P.C. were to be restored after condonation of delay, this Court finds hardly any material on which it could be said that it is expedient or in the interest of justice to direct criminal action to be initiated in terms of Section 340 Cr.P.C.

7. The petition is, thus, dismissed in the hope that the parties will hereafter not agitate such trivial issues any further.

R.K.GAUBA, J.

JANUARY 11, 2018

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