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

% *Date of Judgment: 21st August, 2018*

+ LPA 297/2017 & C.M.15228/2017

R.P SHARMA & ANR.

..... Appellants

Through: Mr. Puneet Mittal, Sr. Adv. with
Mr. Pradeep Purohit and Mr.
Rupendra Pratap Singh, Advs.

versus

PREM CHAND & ORS.

..... Respondents

Through: Mr. Samrat Nigam and Mr. Shaurya
Kuthiala, Advs. for R-1 with R-1 in
person.
Ms. Jyoti Taneja, Adv. for GNCTD.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J. (ORAL)

1. The present appeal is directed against the order dated 27.03.2017 wherein extensive directions have been given by the Single Judge for filing affidavit of assets, income and expenditure of the appellants herein and other Directors of respondent no.4 company.
2. Necessary facts to be noticed for disposal of this appeal are that respondent no.1 (workman) was appointed as an Electrician by respondent no.5 company on 05.07.1986. The respondent no.1 (workman) claimed that his services were illegally terminated on 21.05.2001. The workman thereafter approached the Labour Court. The Presiding Officer, Labour Court passed an ex-parte award on 28.07.2005. A recovery certificate was issued by the Deputy Labour

Commissioner on 25.09.2007. Aggrieved by the fact that no recovery had been made despite an award was rendered and a recovery certificate was issued in favour of the respondent no.1 (workman), he filed W.P.(C) 4870/2013 seeking a direction to the Labour Commissioner, District Collector to execute the recovery certificate dated 25.09.2007. Direction was also sought against the company its directors, including the appellants herein to release the amount as per the award. In this backdrop, when the writ petition came up for hearing, the learned Single Judge directed the present appellants and all the directors of the company to file their affidavits of assets, income and expenditure on the date of the award i.e. 28.07.2005 as well as the present in the prescribed format and also documents mentioned as per the format. The learned Single Judge in W.P.(C) 4870/2013 has passed the following order:

“1. Respondents No. 5 and 6 and all other Directors of respondent No.4 are directed to file the affidavit of their assets, income and expenditure as on date of the award i.e. 28th July, 2005 as well as on today in the format attached hereto as Annexure-A along with document mentioned in Annexure-A within a period of four weeks from today. The affidavit shall also contain the particulars mentioned in para 14 of ***Bhandari Engineers & Builders Pvt. Ltd. v. Maharia Raj Joint Venture*** (2016) 227 DLT 302.

2. Respondents No.5 and 6 as well as Company Secretary of respondent No.4 shall remain present in Court on the next date of hearing.

3. Learned counsel for respondents No.4 to 6 submits that all the assets of the respondent No.4 have been taken over by the CBI. In that view of the matter, issue Court notice to CBI. Mr. Narender Maan, Special P.P.,CBI, present in Court, accepts notice.

4. The competent officer of CBI shall remain present in the Court along with status of the CBI investigation.
 5. List on 5th May, 2017.
 6. Copy of this order be given dasti to the counsel for the parties under signature of the Court Master.”
3. Mr.Puneet Mittal, learned Senior Counsel for the appellants submits that the award dated 28.07.2005 passed by the Labour Court was only against the respondent no.5 company and the appellants herein were not arrayed as parties. Mr.Mittal, has contended that the appellants were directors of respondent company but they have since resigned; even otherwise, the company has become defunct and there is no activity since February, 2001. The respondent no.1/workman who is present in Court submits that he has been running from pillar to post since 21.05.2001 when his services were illegally terminated. He submits that despite recovery certificate having been issued, he has not received even a single penny.
4. We have heard learned counsel for the parties and given our thoughtful consideration to the facts of the matter. Sequence of events reflect a very sorry state of affairs where despite an award dated 28.07.2005 in favour of the workman, he has not been able to derive fruits of the award. In the year 2011, the Deputy Labour Commissioner had issued a letter for execution of the recovery certificate. However, no payment has been released till date which forced the workman to knock the doors of this Court for justice. The writ petition was instituted in the year 2013 and even till the year 2017 when the impugned order dated 27.03.2017 was passed, there was no sight of any relief to the workman.

Post passing of the order by the Single Judge, the present LPA was instituted and by an order dated 24.04.2017, the order of the Single Judge directing filing of an affidavit as per the format has been stayed. We are informed that next date fixed in the writ petition is 11.01.2019. The writ petition is not being decided only because of the details which are being sought from the appellants herein. Reading of the order dated 27.03.2017 would show that the aim, objective and purpose of issuing the directions was to ensure that the respondents do not escape their liability, if any. However, the order has actually translated into gross delay inasmuch as that the order was passed on 27.03.2017 and till date there has been no finality in the writ petition.

5. At this stage, Mr.Puneet Mittal, learned Single Judge appearing for the appellants submits that without prejudice to the rights and contentions and pleas raised by the appellants before the learned Single Judge, the appellants would file an affidavit along with their list of assets and every effort would be made to supply the correct and complete information before the next date of hearing.
6. Having regard to the plight of the workman, date of 11.01.2019 is cancelled. Parties shall appear before the Single Judge on 05.09.2018. We also make it clear that in case, the affidavits are filed, the appellants need not remain present in Court. However, should the learned Single Judge find that the affidavits are either incomplete or do not portray the correct picture, it would be open to the learned Single Judge to direct presence of the appellants. Accordingly, we modify the order dated 27.03.2017 passed by the learned Single Judge with respect to the appellants and dispose of the appeal.

C.M.15228/2017(stay)

7. The application stands disposed of in view of the orders passed in the appeal.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

AUGUST 21, 2018

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