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

Date of Decision:- 18.01.2019

+ W.P.(C) 506/2019

OIL AND NATURAL GAS CORPORATION Petitioner

Through Mr.Sudhir Nandrajog, Sr.Adv. with
Mr.Jeemon Raju, Rakesh Sinha, Advs.

versus

SANTOSH KUMAR SHARMA & ORS. Respondents

Through Mr.Pankaj Kumar with Mr.Prabhat
Kumar, Advs.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

REKHA PALLI, J (ORAL)

CAV 51/2019

1. Mr.Pankaj Kumar, learned counsel enters appearance on behalf of the respondents/caveators and states that a complete set of the paper book has been served to him.
2. In view of the above, the caveat stands discharged.

C.M. No. 2396/2019 (for exemption)

Allowed, subject to all just exceptions.

W.P.(C) 506/2019 & C.M. No.2395/2019 (stay)

1. By way of the present petition, the petitioner impugns the orders dated 21.05.2018, 16.11.2018 and 10.12.2018 passed by the learned Labour Court.
2. Mr.Sudhir Nandrajog, learned Senior Counsel for the petitioner,

on instructions, states that at this stage he does not press the petition insofar as the challenge to the orders dated 21.05.2018 and 16.11.2018 are concerned, but reserves his right to raise the issues in respect thereof at the time of final arguments, as per the liberty granted to the petitioner vide order dated 16.11.2018. Thus, the only subsisting challenge in the present petition is to the order dated 10.12.2018, whereunder the right of the petitioner/management to lead evidence was closed by the learned Labour Court.

3. Learned counsel for the parties jointly submit that on 15.01.2019, the learned Labour Court adjourned the matter to 22.01.2019 at the request of the learned counsel for the petitioner, on the ground that the petitioner has already approached this Court.

4. Mr. Nandrajog submits that the petitioner proposed to examine only one witness, namely Ms.Nirmala Patel, before the learned Labour Court and duly filed her evidence by way of an affidavit on 14.09.2016. The aforesaid affidavit of evidence referred to 46 exhibits, which could not be filed by the petitioner alongwith the affidavit and, therefore, on 10.12.2018 the petitioner had only requested the learned Labour Court to grant them an opportunity to file those exhibits which were not readily available, after tracing them out. However, instead of allowing the petitioner's aforesaid request and then fixing the matter for cross-examination, the learned Labour Court passed an order closing the petitioner's right to lead evidence and straightaway adjourned the matter to 15.01.2019 for final arguments, without appreciating the fact that there was no attempt on the part of the petitioner to delay the proceedings.

5. Mr. Nandrajog further states that keeping in view the fact that for the last two years, the matter has been getting adjourned for reasons not attributable to the petitioner, the petitioner was fully justified in requesting for an opportunity to produce the exhibits referred to in Ms. Nirmala Patel's affidavit of evidence.

6. On the other hand, Mr. Pankaj Kumar, learned counsel for the respondents while opposing the petition, states that the petitioner has deliberately tried to prolong the adjudication of the case and, therefore, deserve no indulgence after its right to lead evidence has been closed by the learned Labour Court. He, however, states that even if one opportunity as prayed for is granted, the same ought to be subject to stringent conditions so that the petitioner does not once again prolong the proceedings before the learned Labour Court.

7. I have heard the learned counsel for the parties and perused the record. Even though there is no doubt that it is the petitioner itself which is responsible for compelling the learned Labour Court to close its right to adduce evidence, keeping in view the fact that the matter arises out of a reference made way back in 2003 and that the petitioner has already tendered the evidence of its sole witness by way of an affidavit, the ends of justice demand that the petitioner be granted one final opportunity to produce the exhibits relied upon in Ms. Nirmala Patel's affidavit of evidence and thereafter produce the said witness for cross examination.

8. Accordingly, with the consent of the parties, the petitioner is granted one week's time to file the exhibits as sought to be relied upon by them in the affidavit filed on 14.09.2016, subject to the

payment of costs of Rs.50,000/- to be paid to the learned counsel for the respondent. Thereafter, the petitioner shall expeditiously produce its sole witness, namely Ms. Nirmala Patel, for cross-examination. The learned Labour Court is directed to adjourn the matter on the next date to 25.01.2019, in order to enable the petitioner to produce the exhibits within a period of one week as prayed for. Thereafter, the matter be fixed for the cross examination of the respondent's sole witness on a date convenient to the learned Labour Court, which shall not in any case be more than two weeks from 25.01.2019.

9. It is made clear that in case the exhibits are not filed in the time granted and the witness is not produced on the date fixed by the learned Labour Court, the right of the petitioner to adduce evidence shall stand closed.

10. For the aforementioned reasons, the impugned order dated 15.01.2019 is quashed. The petition alongwith the pending application is disposed of with the aforesaid directions.

Dasti.

(REKHA PALLI)
JUDGE

JANUARY 18, 2019

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