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

+ **W.P.(C) 4451/2019 & CM APPL. 19760-19761/2019**

**VIKASH SAREEN**

..... Petitioner

Through: **Mr. Ravinder Kumar and Mr. Sanjay  
Pal, Advocates**

versus

**HEERA LAL AND ORS.**

..... Respondents

Through: **None**

**CORAM:**

**HON'BLE MR. JUSTICE SURESH KUMAR KAIT**

**ORDER**

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**07.05.2019**

Vide the present petition, the petitioner seeks to set aside the impugned order dated 19.07.2018 passed by the respondent no. 5 in application Under Order 9 Rule 13 of CPC in Claim Petition No. S&E/D/112/2013 and consequently, set aside the impugned orders dated 14.03.2014, 02.12.2013 and 07.10.2014 passed by respondent no. 5.

The case of the petitioner is that on 12.08.2011, the respondent nos. 1 to 4 issued notice to the petitioner through one Labour Union on the basis of estimated bill prepared by them against a work of carpenter done at 8/15, Sarpriya Vihar and at C-58-AB, Sameer Kutir, Kalkaji, New Delhi duly engaged by the petitioner in the capacity of being Manager of M/s V.S. Enterprises.

On 14.02.2013, the respondent nos. 1 to 4 filed a claim for earned wages against the work of carpenter done, amounting of ₹ 1,10,000/- before

the respondent No. 5. Accordingly, on 02.12.2013, the respondent no. 5 issued a notice to the petitioner, pursuant to which the petitioner did not appear, as a result of which the respondent No. 5 proceeded ex-parte against the petitioner and thereafter, on 14.03.2014, the respondent No. 5 passed an order U/s 21 of the Act towards earned wages of ₹ 1,10,000/- in favour of the respondent nos. 1 to 4.

On 07.10.2014, the respondent No. 5, filed an application U/s 21(5) (b) of the Act for recovery of amount of ₹ 1,10,000/- as fine before the Learned MM (Evening), Patiala House Courts, New Delhi vide CC No. 1046/3M/14. Accordingly, the petitioner appeared on 09.03.2016 before the Ld. Trial Court and received the set of the document filed by the respondent no.5. The said Court has fixed the date for the further proceedings on 04.06.2016.

Being aggrieved, the petitioner filed a writ petition (Civil) no. 4961/2016 and prayed to set aside the order dated 02.11.2013 and award dated 14.03.2014 and the same was withdrawn on 27.05.2016 with liberty to file an application before the respondent No.5 for recall as well for stay of the ex-parte order dated 02.12.2013 and final order dated 14.03.2014.

The case of the petitioner is that he has not received the notice in a claim filed by respondent Nos. 1 to 4 before respondent No. 5. Therefore, he could not appear before respondent no. 5. However, the fact remains that the summons were served dated 11.03.2013 sent through authorized agency DTDC courier and Cargo Ltd. POD regarding delivery of the summons available on record of respondent No.5 establishes that the summons were delivered and received by one Shri Ram Vilas whose contact number is mentioned as 26844666.

On the basis of this, the then Learned Authority passed a order on 14.03.2014. It is clear from the delivery report that the notice was served upon the petitioner and thereafter, the petitioner did not appear before the Learned Authority who passed the concerned order.

It is not in dispute that the petitioner received summons from the Learned Trial Court and pursuant to that, he appeared on 09.03.2016. The said summons received at the same address, where earlier notices were served upon the petitioner, but he did not appear before respondent No. 5.

In view of the above facts as recorded, there is no merit in the present petition. The same is, accordingly, dismissed.

**SURESH KUMAR KAIT, J**

**MAY 07, 2019**

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