

\$~35

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 2nd March, 2020
+ **CM(M) 98/2020 and CM APPL. 3378/2020**
M/S SHUSHRE SECURITIES PVT LTD Petitioner
Through: Mr. Anil K. Khaware, Ms. Azma
Zaidi and Mr. Virendra Singh,
Advocates (M: 9810027839).

versus

M/S TIMES A & M (INDIA) LIMITED & ORS Respondents
Through: Mr. Anil Sharma and Mr. Sahil Batra,
Advocates (M: 8920756651).

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. The present petition was filed by the Petitioner herein/Plaintiff seeking expeditious disposal and judgment in the application for leave to defend. The prayer in the petition reads as under:

“(a) direct the disposal of the leave to defend application by the ld predecessor judge Ms Surya Malik Grover, ADJ - 01 (South East), Saket, New Delhi in terms of circular/notice dated 24/12/2019 as the matter was reserved for order on 16.04.2019 itself.

(b) In the alternative, the incumbent/successor Judge, Ms Shelly Arora, ld ADJ- 01 (South East) Saket, New Delhi may be directed to conclude the hearing on 24/01/2020 i.e. date fixed and pronounce the judgment on the said application of leave to defend on 24/01/2020 or in any event within Seven (7) days thereafter, by conducting day to day hearing, if necessary.

(b) pass any other and such order/s as may be deemed necessary and expedient in the interest of justice.”

2. The Petitioner filed a suit under Order XXXVII CPC seeking recovery of a sum of Rs. 41,08,963/- along with 18% interest w.e.f. 1st May,

2014 till realisation. In terms of the provisions of Order XXXVII CPC, memo of appearance was filed by the Defendants and thereafter the Plaintiff has filed summons for judgement. The Defendants have also sought leave to defend. On 17th August, 2016, the Trial Court records that the pleadings are complete in respect of the leave to defend application. The matter is thereafter partly heard on the leave to defend application on 27th October, 2018. Finally, the arguments are concluded in the said application on 16th April, 2019. However, the matter is continuously adjourned thereafter repeatedly for clarifications if any /orders. Till the time of filing of this petition, orders were not pronounced. The Petitioner filed the present petition seeking the prayers extracted above inasmuch as considerable time has lapsed i.e. since 2016 in a summary suit, and orders were not being pronounced in the leave to defend application.

3. On the last date, i.e., 28th January 2020, the Trial Court record was summoned and notice was also issued to the Defendants. Ld. counsel has entered appearance for the Defendants and submits that the Judicial Officer has now changed and thus, the erstwhile judicial officer who had heard the matter is no longer available. He has no objection if expeditious disposal of the leave to defend application is directed by this Court.

4. This Court, on 28th January 2020, had also noticed that the practice of adjourning the matters for orders repeatedly, after arguments are concluded, is usual in the Trial Courts. Accordingly, a report was sought from the Registrar General to collate the data in respect of such cases. The directions passed in the last order are as under:

“6. While this matter was being heard, several counsels present in Court have intervened and submitted that the

practice of adjourning matters for clarifications/orders, after hearing is concluded is quite prevalent in the District Courts. In view of the above, the worthy Registrar General is directed to collate the data from all District Judges as to the number of cases including suits, petitions, applications etc., which after conclusion of arguments are adjourned for orders/clarifications by each of the Additional District Judges and District Judges (Commercial Courts). Let the said report be placed before the Court before the next date of hearing. Copy of this order be sent to the worthy Registrar General today itself.”

5. The ld. Registrar General has now put up a report after collating the data in respect of the number of cases which are pending for clarification/orders, after arguments have been heard. The same shows that in several districts, there are a number of cases wherein the applications/matters are pending for judgment/orders. A tabular statement of the same in respect of the various districts is as under:-

<i>Name of Court</i>	<i>No of cases which after conclusion of hearing are adjourned for orders/clarification</i>
<i>Tis Hazari (Central)</i>	<i>14</i>
<i>South (Saket)</i>	<i>68</i>
<i>East (Karkardooma)</i>	<i>28</i>
<i>South West (Dwarka)</i>	<i>Nil</i>
<i>Shahdara (Karkardooma)</i>	<i>Nil</i>
<i>Rohini (North West)</i>	<i>6</i>
<i>Saket (South East)</i>	<i>106</i>
<i>Tis Hazari (West)</i>	<i>15</i>
<i>Patiala House Court (New Delhi)</i>	<i>19</i>
<i>Rohini (North)</i>	<i>20</i>
<i>Karkardooma (North East)</i>	<i>3</i>

6. The above tabulation as put up by the Id. Registrar General clearly confirms that the practice of adjourning matters for clarification/orders, after arguments have been concluded, is quite prevalent in the Trial Courts and the same needs to be avoided completely as the practice of non-pronouncing of orders can lead to enormous frustration amongst the litigants and also lead to pendency in the Courts.

7. In **Anil Rai v. State of Bihar, (2001) 7 SCC 318** the Supreme Court has clearly directed that once the matters are heard, the orders would have to be pronounced within a reasonable period. The observations of the Supreme Court are as under:

“8. The intention of the legislature regarding pronouncement of judgments can be inferred from the provisions of the Code of Criminal Procedure. Sub-section (1) of Section 353 of the Code provides that the judgment in every trial in any criminal court of original jurisdiction, shall be pronounced in open court immediately after the conclusion of the trial or on some subsequent time for which due notice shall be given to the parties or their pleaders. The words “some subsequent time” mentioned in Section 353 contemplate the passing of the judgment without undue delay, as delay in the pronouncement of judgment is opposed to the principle of law. Such subsequent time can at the most be stretched to a period of six weeks and not beyond that time in any case. The pronouncement of judgments in the civil case should not be permitted to go beyond two months.”

8. Recently, in **Deepti Khera v. Siddharth Khera [CM (M) 1637/2019, decided on 18th November, 2019]**, as also in **Y. N. Gupta (Deceased) Thr. LR v. M/s. M A Ramzana [CM (M) 1827/2019, decided on 24th December,**

2019], this Court had directed as under:-

“Deepti Khera v. Siddharth Khera

9. While this Court is conscious of the fact that there are pressures on the Trial Courts, non-pronouncement of orders for more than a year cannot be held to be justified. It has been observed in several matters that trial courts keep matters ‘FOR ORDERS’ for months together and sometimes orders are not pronounced for even 2-3 years. Thereafter the judicial officer is transferred or posted in some other jurisdiction and the matter has to be reargued. Such a practice puts enormous burden on the system and on litigants/lawyers. The usual practice ought to be to pronounce orders within the time schedule laid down in the CPC as also the various judgements of the Supreme Court. In civil cases maximum period of two months can be taken for pronouncing orders, unless there are exceptional cases or there are very complex issues that are involved.”

Y. N. Gupta (Deceased) Thr. LR v. M/s. M A Ramzana

3. The practice of trial courts adjourning matters repeatedly ‘FOR ORDERS’ and not pronouncing orders, has attained epidemic proportions, as is being seen in several matters.

4. This petition is reflective of the incessant practice of Trial Courts of repeatedly adjourning a matter for orders, after hearing arguments. A perusal of the order sheet of the Appellate Court in this case, which was presided over by two different Id. District & Sessions Judges, shows that since April, 2019, the appeal is being heard and is being adjourned for orders on almost every date. More than 10 hearings have taken place, however, the orders are yet to be pronounced. On each date, either the order-sheet shows that the matter is listed for orders or that it is part-heard.

...

20. The repeated adjourning of matters for orders

reflects extremely poorly on the Court system. Litigants would lose faith if orders are not passed by the Court after arguments are heard. Such a practice cannot be permitted. Once arguments are heard, the Court has an obligation to pass orders within a reasonable time. Repeated hearing of arguments also increases the litigation costs for litigants, as they have to incur expenses for legal representation, etc., Such a practice would also make access to justice unaffordable.”

9. Accordingly, reiterating the directions by this Court in **Deepti Khara** (*supra*) and **YN Gupta** (*supra*) and the binding judgment of the Supreme Court in **Anil Rai** (*supra*), the present petition is disposed of with the direction that the respective District Judges in the said districts may take appropriate steps in order to ensure that once the arguments are heard, the orders are passed in terms of the law laid down by the Supreme Court and matters are not simply adjourned for ‘ORDERS’ and ‘Clarifications’ after arguments are concluded. The report put up by the Registrar General along with the data be placed before Hon’ble the Chief Justice for appropriate directions, if any, on the administrative side. The report be also retained as part of the judicial record of this petition.

10. In this petition, the suit is stated to be listed on 3rd April, 2020 before the Trial Court. After hearing arguments on the leave to defend application, the trial Court shall dispose of the same expeditiously and in any event, on or before 30th May, 2020. The petition and all pending applications are disposed of. *Dasti*.

PRATHIBA M. SINGH
JUDGE

MARCH 02, 2020/MR/A.S.