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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 5339/2020 & CM APPLs. 19269/2020, 19270/2020**
M/S B - EARTH AND SPIRE PVT. LTD Petitioner

Through: Ms. Saumitra Singhal, Advocate (M-9818341523)

versus

SH. AMRENDRA KUMAR PANDEY Respondent
Through: None.

CORAM:
JUSTICE PRATHIBA M. SINGH

ORDER
% **18.08.2020**

1. This hearing has been held through video-conferencing.
2. The present petition has been filed challenging the impugned award dated 8th August, 2019 and orders dated 15th July, 2019 and 5th February, 2020 passed by the Id. Presiding Officer, Labour Court. The case of the Petitioner is that when the Respondent/Workman filed claims before the Labour Court, summons for appearance was received by the Petitioner sometime in March, 2019. However, the Petitioner's HR Manager at that time, who had knowledge of the case, was in the process of leaving the company and did not bring the same to the notice of the Management. Consequently, the next date i.e. 15th July, 2019 was missed by the Petitioner.
3. Ld. counsel submits that on 15th July, 2017, the Court proceeded against the Petitioner *ex parte* and the final award was passed on 8th August, 2019. Thereafter, the Petitioner is stated to have come to know about the impugned

award when he appeared before the Office of the Deputy Labour Commissioner for implementation of the aforesaid ex-parte award on 12th December, 2019. The Petitioner immediately moved an application seeking setting aside of the order dated 8th August, 2019. The same was dismissed by the impugned order dated 5th February, 2020 by which the Labour Court has held that the ground taken by the Petitioner is a “*flimsy ground*”.

4. Considering that the Petitioner had no opportunity to present its case before the Labour Court, in the Court’s opinion, the Labour Court has erred in holding that the ground taken by the Petitioner is a flimsy ground. Such language is completely avoidable in orders passed by courts. The Court could have imposed some costs or directed deposit of some money and permitted the Petitioner to defend its case.

5. Accordingly, in order to meet the ends of justice, it is directed that the Petitioner/Management shall deposit a sum of Rs.1.5 lakh before the Labour Court, within a period of four weeks, as a condition for it to defend its matter on merits. Subject to the deposit being made, the Management/Petitioner shall be heard on merits and the impugned award dated 8th August, 2019 shall stand set aside.

6. If the Workman is aggrieved by this order, he is permitted to approach this Court.

7. Parties to appear before the Labour Court on 6th October, 2020.

8. This petition, along with all pending applications is disposed of, in these terms.

PRATHIBA M. SINGH, J

AUGUST 18, 2020

Rahul/A