



\$~71(Appellate)

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

+ CM(M) 814/2022 & CM APPL.35691/2022, CM
APPL.35692/2022, CM APPL. 35693/2022

MITHLESH SHARMA Petitioner
Through: Mr. Rishabh Kapur, Adv.

versus

AMAN GUPTA Respondent
Through: Mr. Anil Sharma, Mr. Sachet
Sharma and Mr. Sahil Batar, Adv.

CORAM:
HON'BLE MR. JUSTICE C.HARI SHANKAR

J U D G M E N T (O R A L)

% **18.08.2022**

1. This petition, under Article 227 of the Constitution of India, challenges an order dated 13th July, 2022, passed by the learned Civil Judge in Civil Suit 1059/19 (*Aman Gupta v. Mithlesh Sharma*) whereby costs of ₹ 25,000/-, imposed by the learned Civil Judge *vide* order dated 19th April, 2022 were reduced to ₹ 15,000/-. By the present petition, the petitioner seeks waiver of the costs of ₹ 15,000/- or further reduction thereof.

2. The costs of ₹ 25,000/- were imposed, by the order dated 19th April, 2022 for condoning the delay in filing written statement in response to the suit instituted by the respondent.

3. Mr Rishabh Kapur, learned Counsel for the petitioner candidly acknowledges that the normal time provided in Order VIII Rule 1 of



the CPC for filing written statement expired prior to 15th March 2020 and that, therefore, the petitioner may not be able to obtain any benefit from the judgment of the Supreme Court in *In re. Cognizance for Extension of Limitation*¹, in view of the subsequent decision in *Sagufa Ahmed v. Upper Assam Plywood Products Pvt Ltd*², which excludes, from the ambit of the benefit extended by *In re. Cognizance for Extension of Limitation*¹, cases in which the normal period of limitation had expired prior to 15th March 2020 and the period upto which delay could be condoned expired thereafter.

4. Mr Kapur submits, nonetheless, that the petitioner is a lady of advanced age, who is in straitened financial circumstances and that she would be seriously prejudiced if she were required to deposit the aforesaid costs.

5. While the Court sympathises with the plight of the petitioner, sympathy alone cannot constitute a basis for interference with the orders passed by the Trial Court, in exercise of jurisdiction vested in this Court by Article 227 of the Constitution of India. Clearly, there is no erroneous exercise of jurisdiction by the learned Civil Judge, as would justify this Court stepping in and interfering with the exercise of discretion by her.

6. No case is, therefore, made out for the Court to interfere with the impugned order.

¹ *Suo Motu WP 3/2020*

² (2021) 2 SCC 317



7. The petition is accordingly dismissed. Pending applications also do not survive for consideration and are disposed of as such.

C.HARI SHANKAR, J

AUGUST 18, 2022/kr

