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

+ W.P.(C) 8702/2019

KINGS DORIAN EXPORTS (THROUGH MOHSIN KHAN,
AUTHORIZED REPRESENTATIVE) Petitioner

Through: Mr. Imran Ali with Mr. Maneesh
Saxena, Advocates.

versus

MOHD ANISH Respondent

Through: Mr. Pradeep Kumar Shukla,
Advocate.

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Date of Decision: 02nd June, 2022

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

W.P.(C) 8702/2019 & CM APPL.52238/2019 (under Section 17B of ID Act)

1. Present petition has been filed challenging the impugned order dated 30.05.2019, whereby, while allowing the application under Order IX Rule 13 CPC for setting aside Award dated 06.12.2018, it was *inter alia* held that before issuance of notice of the application to the non-applicant/claimant, Management was directed to deposit 100% of the Award amount till date in the name of the Court in the form of Demand Draft within next 10 days. In



terms of the Award dated 06.12.2018 since the Management did not deposit this amount, learned Presiding Officer Labour Court – V dismissed the application under Order IX Rule 13 CPC.

2. Aggrieved of this, the petitioner filed the present petition with a prayer to set aside the ex-parte Award dated 06.12.2018, notice U/S 33 - C(1) OF I. D. ACT dated 15.04.2019 and impugned orders dated 30.05.2019 and 03.07.2019.

3. Plea of the petitioner is that in fact respondent workman had himself left the job after receiving full and final salary. It has been stated that in fact 14 such objections were filed and most of them were dismissed. It has further been stated that the present petition was wrongly filed in the name of K.D. Exports (Shahila Enterprises), whereas the correct name of the petitioner is King Dorian Export.

4. Plea of learned counsel for the respondent is that the petitioner management was duly served before learned Trial Court and learned Trial Court after considering the entire material on record, passed a reasoned order and held the claimant entitled to the relief of reinstatement with full back wages and continuity of service.

5. During the pendency of the writ petition, the respondent workman has also filed an application under Section 17B of the Industrial Disputes Act, 1947 and has demanded the petitioner management to make the payment of full wages last drawn by him from the date of the Award.

6. During the course of arguments, learned counsel for the petitioner



submits that he is ready to deposit 100% of the awarded amount in terms of the Order dated 30.05.2019 provided ex-parte award is set aside and the learned Labour court may be directed to adjudicate the matter afresh.

7. Learned counsel for the respondent has pressed that before disposing of the present petition, his application under Section 17B of the Industrial Disputes Act, 1947 may be allowed and the workman may be paid full wages.

8. I have considered the submissions of learned counsel of both the parties.

9. Let the petitioner management deposit 100% of the amount, as awarded vide Award dated 06.12.2018, within 6 weeks with learned Presiding Officer Labour Court-V. Learned Presiding Officer Labour Court-V shall consider making the payment out of the amount deposited by the petitioner to the workman. Ex-parte order dated 06.12.2018 is set aside. Learned Presiding Officer Labour Court-V shall decide the reference made vide Notification No.F-24(618)/Lab/SD/2015/20612 dated 20.08.2015 expeditiously preferably not beyond 6 months.

10. With these observations, writ petition stands disposed of.

DINESH KUMAR SHARMA, J

JUNE 2, 2022
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