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

Date of decision: 15.12.2023

\+ CM(M) 776/2023 & CM APPL. 24260/2023

SDM ALIPUR ..... Petitioner

Through: Mr. Tushar Sannu and Mr. Priyankar Tiwari, Advocate

versus

DEEPANSHU AGARWAL & ANR. ..... Respondent

Through: Mr. S.R. Agarwal, SPA in person for R-1.
Mr. Sanjeev Sagar, Standing Counsel for DHCLSC with Ms. Nazia Parveen, Advocates, R-2, DLSA

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\+ CM(M) 777/2023 & CM APPL. 24262/2023

S D M ALIPUR ..... Petitioner

Through: Mr. Tushar Sannu and Mr. Priyankar Tiwari, Advocate

versus

DEEPANSHU AGARWAL & ANR. ..... Respondents

Through: Mr. S.R. Agarwal, SPA in person for R-1.
Mr. Sanjeev Sagar, Standing Counsel for DHCLSC with Ms. Nazia Parveen, Advocates, R-2, DLSA

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CORAM:
HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMEET PRITAM SINGH ARORA, J (ORAL):

1. The present petitions filed under Article 227 of the Constitution of India, impugns the orders dated 18.01.2023 and 24.03.2023 passed by the

Senior Civil Judge, North District, Rohini Courts, New Delhi ('Trial Court') in the connected civil suits being SCJ No. 1304/21 titled as '***M/s D. A. Enterprises Vs. M/s Mela Ram Ispat' and*** SCJ No. 1305/21 titled as '***M/s D. A. Enterprises Vs. M/s Rajesh Steel Industries'.***

1.1 The Respondent No. 1 is the original plaintiff and has been given provided legal representation by Respondent No. 2 in the said civil suits.

2. Learned counsel for the Petitioner states that the Trial Court vide order dated 18.01.2023 has imposed a cost of Rs. 5,000/- (Rupees Five Thousand) on the Petitioner herein. Further, by order dated 24.03.2023 the Trial Court has dismissed the application seeking waiver of costs and directed that the same be recovered from the salary of the Petitioner herein.

2.1 He states that the Petitioner has filed a second report dated 17.04.2023 before the Trial Court, placing on record the Income Tax Returns ('ITRs'), Permanent Account Number ('PAN') Card and the bank statement of the Respondent No.1.

2.2. He states that on a perusal of the said documents, it is evident that the annual income of the Respondent No. 1 is less than Rs. 3,00,000/- (Rupees Three Lakhs). He further states that a final report with these findings will be filed before the Trial Court on 30.01.2024 i.e., the next date of hearing.

2.4 He states that the non-appearance of the Petitioner before the Trial Court on 18.01.2023 was inadvertent and since this was the first posting of the Petitioner, there was an administrative lapse which led to the non-appearance.

2.5 He states that since then the Petitioner has taken measures for course correction to ensure timely compliance of Court orders/directions; and Petitioner undertakes that any further directions issued by the learned Trial

Court will be complied with in a timely manner.

2.6 He prays that since this is the beginning of the career of the Petitioner, the observations in the impugned order made against the Petitioner will cause irreparable harm. He prays that the observations be recalled and costs be waived.

3. Learned counsel for Respondent No. 2 states that Respondent No. 2, as per the Delhi Legal Services Authority Regulations, 2002 ('the Regulations') and Delhi Legal Services Authority Rules, 1996, provides legal services to the eligible litigants relying upon their affidavit of income; and this is the administrative procedure followed by the Respondent No. 2. He states that currently a person having annual income less than Rs. 3,00,000/- is entitled to free legal aid services.

3.1 He states that Respondent No. 2 has perused the documents filed by the Petitioner with the report dated 17.04.2023 and is satisfied that the annual income of the Respondent No. 1 is below Rs. 3,00,000/-.

3.2 He states that, however, if any further enquiry of income is to be carried out for a specific litigant under directions of the concerned Court, the Respondent No.2 has no objection to the same.

3.3 He states that, however, as per the Regulations, upon an affidavit being filed by a litigant declaring that his income is below Rs. 3,00,000/-, the Respondent No. 2 is under a legal obligation to provide legal services to the litigant.

4. This Court has considered the submissions of the parties and perused the record.

5. A perusal of the ITR for the Assessment Years 2021-22 and 2022-23, shows that the total gross income of the Respondent No.1 is below Rs.

3,00,000/-.

6. In the facts and circumstances of the case, this Court is of the opinion that since the Respondent No.1's ITR return shows gross income less than Rs. 3,00,000/-, ex-facie legal assistance extended by the Respondent No.2 is as per its Regulations.

7. The Petitioner has undertaken to file a comprehensive report giving his conclusive findings before the Trial Court and he is ordered to do so accordingly. In view of the fact that Petitioner is a new incumbent and this is beginning of his career graph; keeping in mind the course correction undertaken by the Petitioner to ensure future compliances in his office the adverse observations against the Petitioner in the impugned orders dated 18.01.2023 and 24.03.2023 are set aside and the costs are hereby waived.

8. The Petitioner is directed to ensure that an appropriate and efficient system is put in place in the office under his jurisdiction so that orders/directions passed by the courts are complied with in a timely manner.

9. Accordingly, the present petition is disposed of. Pending applications, if any, stands disposed of.

10. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as a certified copy of the order for the purpose of ensuring compliance. No physical copy of order shall be insisted by any authority/entity or litigant.

MANMEET PRITAM SINGH ARORA, J

DECEMBER 15, 2023/msh/MG

Click here to check corrigendum, if any