



\$~59

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

Date of decision: 08.11.2023

+ **CM(M) 1838/2023, CM APPL. 58001/2023 & CM APPL. 58002/2023**

SANJAY TYAGI & ANR.

..... Petitioners

Through: Mr. Praveen Goswami, Advocate
(through VC)

versus

M/S GSV PRODUCTS

..... Respondent

Through: None

%

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMEET PRITAM SINGH ARORA, J (ORAL):

1. This petition filed under Article 227 of Constitution of India impugns the orders dated 03.08.2023 and 24.08.2023 passed by the District Judge (Commercial Court)-01, West District, Tis Hazari Courts, Delhi ('Trial Court') in CS (COMM.) No. 475/2021, titled as "**M/s GSV Products v. Mr. Sanjay Tyagi**".

1.1. The Trial Court vide order dated 03.08.2023, subject to costs of Rs. 1,000/- to be paid to the Petitioner, permitted the Respondent to place on record a certificate under Section 65B(4) of the Indian Evidence Act, 1872, ('Act of 1872') to prove the ledger account, postal receipt, tracking report and tax invoices.



1.2. The Trial Court subsequently vide order 24.08.2023 dismissed the application seeking recall of the order dated 03.08.2023.

2. Learned counsel for the Petitioner states that the since the certificate under Section 65B(4) of the Act of 1872 is dated 10.07.2023 and the documents which are sought to be proved on the basis of the said certificate were filed before the Trial Court in the year 2021, the Trial Court fell in error in permitting the said certificates to be taken on record.

3. This Court has considered the submissions of the Petitioner and perused the record.

4. A perusal of the order dated 03.08.2023 evidence that the said order was passed with the consent of the Petitioner and after recording his no objection. The Petitioner is precluded from challenging the said order on this ground alone.

5. Be that as it may, this Court has perused the said certificate dated 10.07.2023 and the impugned orders; and does not find infirmity in the said orders. The impugned orders passed by the Trial Court are well within its jurisdiction.

6. In the opinion of this Court, since the impugned orders have been passed in a suit filed under the provisions of Commercial Court Act, 2015, no interference is warranted by this Court in its supervisory jurisdiction under Article 227 of Constitution of India. In this regard it would be instructive to refer the judgment of Coordinate Bench of this Court in ***Black Diamond Trackparts Pvt. Ltd. and Ors. v. Black Diamond Motors Pvt. Ltd., 2022 SCC OnLine Del 545***, wherein it was held as under:

*“5. Before proceeding further, it may be noted that **the power under Article 227 of the Constitution of India being one of judicial superintendence cannot be exercised to upset conclusions, howsoever***



erroneous they may be, unless there was something grossly wrong or unjust in the impugned order shocking the court's conscience or the conclusions were so perverse that it becomes absolutely necessary in the interest of justice for the court to interfere. The powers under Article 227 will be used sparingly. The Supreme Court has observed in India Pipe Fitting Co. v. Fakruddin M.A. Baker [India Pipe Fitting Co. v. Fakruddin M.A. Baker, (1977) 4 SCC 587] and in Mohd. Yunus v. Mohd. Mustaqim [Mohd. Yunus v. Mohd. Mustaqim, (1983) 4 SCC 566] that the supervisory jurisdiction conferred to the High Courts under Article 227 of the Constitution of India is limited to overseeing that an inferior court or tribunal functions within the limits of its authority and is not meant to correct an error, even if apparent on the face of the record. A mere wrong decision without anything more is not enough to attract this jurisdiction. Even in the judgment relied upon by the learned Senior Counsel for the respondent-plaintiff, mentioned above, the Division Bench of this Court has again cautioned that Article 227 of the Constitution of India be used sparingly in such suits which under the CPC are revisable and which remedy has been taken away by the Commercial Courts Act, 2015, in order to preserve the legislative intent and give effect to the purpose behind the Commercial Courts Act, of expeditious disposal of commercial suits.

(Emphasis Supplied)

7. The impugned orders were passed by the Trial Court on 03.08.2023 and 24.08.2023, however, this petition has been filed after three (3) months in November, 2023. The present petition, has, therefore, been clearly filed with the intention to delay the trial.
8. Accordingly, the present petition is without any merits and is dismissed subject to payment of costs of Rs. 15,000/- to the Respondent. Pending applications are disposed of.
9. It is made clear that if the Petitioner fails to pay the costs imposed vide this order within one (1) week to the Respondent, the defence of the Petitioner shall stand struck off.

MANMEET PRITAM SINGH ARORA, J

NOVEMBER 8, 2023/msh/aa

[Click here to check corrigendum, if any](#)