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

+ LPA 314/2024
REMY ISRANI

..... Appellant

Through: Mr.Fidel Sebastian & Mr.Rishi
Nandy, Advs.

versus

R. B. SETH JESSA RAM HOSPITAL AND BROS

..... Respondents

Through: Ms.Deepa Sharma, Adv.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

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23.04.2024

CM APPL. 23128/2024 & CM APPL. 23125/2024

1. Exemptions allowed, subject to all just exceptions.
2. The applications stand disposed of.

CM APPL. 23126/2024 (additional documents)

3. This is an application filed by the appellant seeking to place on record additional documents.
4. The application is, for the reasons stated therein, allowed and the additional documents filed along with the application are taken on record.
5. The application stands disposed of.



LPA 314/2024 & CM APPL. 23127/2024 (stay)

6. The present appeal under Clause X of the Letters Patent seeks to assail the order dated 05.04.2024 passed by the learned Single Judge in W.P.(C) 5005/2024. Vide the impugned order, the learned Single Judge, while issuing notice in the respondents' writ petition challenging the order dated 14.02.2024 passed by the learned Industrial Tribunal (Tribunal), has stayed the operation of the said order dated 14.02.2024.
7. Learned counsel for the appellant submits that even though no prayer for interim relief was made before the Court by the respondents, the learned Single Judge has proceeded to stay the impugned order. As a consequence thereof, the appellant will not be in a position to rely on additional documents filed with her affidavit in evidence. Grave prejudice will be caused to the appellant who has been pursuing her claim before the learned Tribunal for the last more than ten years on account of the order passed by the learned Single Judge, the pending proceedings before the learned Tribunal will virtually come to a halt.
8. Issue notice. Learned counsel for the respondents accepts notice and submits that the learned Tribunal had gravely erred in imposing costs on the respondents for raising valid objections against filing of documents by the appellant at such a belated stage. She contends that the learned Single Judge was, therefore, justified in staying the learned Tribunal's order and prays that the appeal be dismissed.
9. Having considered the submissions of learned counsel for the parties and perused the record, we may begin by noting the relevant extracts of the order passed by the learned Tribunal on 14.02.2024 which



order was under challenge before the learned Single Judge. The same reads as under:-

“1. By this order, I shall dispose of the question whether the workman can file documents with his affidavit (filed in examination in chief) without seeking permission from this Tribunal?

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7. It is nowhere the case of the management in the present case that the documents are irrelevant or that any prejudice is caused to the management by filing of the documents by the workman with his affidavit. Hence, I am of the considered view that authority is squarely applicable to the facts of the present matter.

8. I have gone through Shambhu Nath And Sons Ltd. Vs. Additional Industrial Tribunal (supra) relied upon by Ld. AR for Management. There cannot be any dispute about the propositions of law laid down in the authority but it is a settled law that each case is to be decided accordingly to its own facts. I am of the considered view that facts in the present matter are materially different from those in the authority. In Shambhu Nath And Sons Ltd. Vs. Additional Industrial Tribunal (supra) relied upon by Ld. ARM, the issue before the Hon'ble High Court was “.... in the present we are only concerned with the production and inspection of documents of the company..... ”, as noted in para 8 of the authority. As noted above, this is not the issue herein. In any case, in the entire authority, there is no discussion about the applicability or otherwise of Rule 15 of the Industrial disputes (Central) Rules 1957. Hence, with great respect, I am of the considered view that the authority is not applicable to the facts of the present case.

9. In view of the above discussion, the question mentioned in Para-1 of this order is decided in favour of the workman and against the management.

10. I find that the issue raised by the management decided by this order is absolutely frivolous and vexatious and the same



has been raised by the management only to delay the disposal of the present matter. A perusal of the record shows that the management is interested only in delaying the disposal of the matter. Hence, a cost of Rs. 10,000/- is imposed on the management for raising the frivolous and vexatious issue. Payment of the cost shall be condition precedent for the management to pursue its defence.”

10. From a perusal of the aforesaid order, what emerges is that the learned Tribunal, while rejecting the respondents' objections to the additional documents sought to be filed by the appellant along with her affidavit of evidence, had imposed a cost of Rs.10,000/- on the respondents, which appears to have compelled the respondents to file a writ petition to assail the said order. Learned counsel for the respondents has urged that since the appellant was filing documents at a belated stage and that too without explaining the reasons for the delay or seeking appropriate leave of the learned Tribunal, the respondents could not be faulted for objecting to filing of the said documents and it was, therefore, not a case where costs ought to have been imposed by the learned Tribunal. Even though, we are inclined to agree with her that it was not a fit case for imposing costs, we are of the view that the learned Tribunal was correct in holding that the appellant could file additional documents with her affidavit in evidence. Taking into account that the Industrial Disputes Act, 1947 is a beneficial legislation where the strict timelines under the Commercial Courts Act or the CPC ought not to be applied, we are of the view that the learned Tribunal has correctly held that there was no bar to the appellant filing these additional documents.



11. Having found that except for imposition of costs there was no error in the order passed by the learned Tribunal, we are of the view that the learned Single Judge has also erred in staying the entire order dated 14.02.2024, which would delay the adjudication of the appellant's pending claim before the learned Tribunal thereby causing grave prejudice to the appellant who is already litigating for the last more than ten years.
12. We, therefore, set aside the impugned order insofar as it directs the stay of the order dated 14.02.2024 and also modify the order dated 14.02.2024 passed by the learned Tribunal insofar as it imposes costs on the respondent. We, however, make it clear that except for setting aside the imposition of costs, we find no reason to interfere with the order dated 14.02.2024 passed by the learned Tribunal. Consequently, the additional documents filed by the appellant along with her affidavit in evidence will be taken on record by the learned Tribunal as per law. However, for the reasons of parity, it will be open for the respondents as well to file additional documents, if any, with their affidavits in evidence as and when tendered.
13. In the light of our aforesaid directions, we are of the opinion that the writ petition in itself has become infructuous. We, therefore, grant liberty to both sides to move an appropriate application before the learned Single Judge for seeking disposal thereof in terms of this order.
14. The appeal along with pending application, is, accordingly, disposed of in the aforesaid terms with a request to the learned Industrial Tribunal to proceed with adjudication of the appellant's pending



claim as per law.

REKHA PALLI, J

SAURABH BANERJEE, J

APRIL 23, 2024
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