



2024:DHC:2142



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

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Judgment reserved on: 22.01.2024
Judgment pronounced on: 18.03.2024

+ CM(M) 640/2022, CM APPL. 29939/2022--stay

MAMTA VERMA

..... Petitioner

Through: Mr. Sunil Mittal, Sr. Adv. with Ms.
Seema Seth, Adv.

versus

SONMATI VERMA & ORS.

..... Respondents

Through: Mr. Gaurav Seth and Mr. Vipin
Malik, Advs.

CORAM:

HON'BLE MS. JUSTICE SHALINDER KAUR

J U D G M E N T

1. The petitioner herein who is the plaintiff before the learned Additional District Judge-02 (East) Karkardooma Courts, Delhi (hereinafter referred to as "Trial Court") in suit bearing number CS No. 512/2019 titled as "*Mamta Verma vs Smt. Sonmati Verma & Ors.*" moved an application under Order XI Rule 1, 12 & 14 read with section 151 of Civil Procedure Code, 1908 (hereinafter referred to as "CPC") which was dismissed vide the impugned order dated 03.02.2022 passed by the learned trial Court with a cost of Rs. 10,000/- to be paid to the respondents. Aggrieved by the aforesaid, the petitioner has preferred the present petition under Article 227 of the Constitution of India, seeking to set aside the impugned order.



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2. A short controversy with respect to passing remarks in a judicial order has arisen in the present case. Mr. Sunil Mittal, learned senior counsel for the petitioner submits that he is not pressing the petition for assailing the impugned order but is aggrieved with the observations made by learned ADJ in casting aspersion on professional competency of the Advocate. It is submitted that remarks appearing in the impugned order are derogatory and while discharging judicial function, a judicial officer should refrain from expressing personal opinion which are irrelevant for adjudication of the case. Mr. Mittal thus submits that such observations which are unnecessary to the facts of the present case be expunged and cost be also waived of and with the said limited relief, his petition be disposed of.

3. The learned counsel for the respondents has not voiced any objection for expunging the uncalled remarks appearing in the impugned order.

4. In view of the above submission, it is relevant that this court takes notice of observations made by the learned Additional District Judge in the impugned order dated 03.02.2022, which are reproduced as below:

“1. Before the Court could do the justice in a cause, a great injustice is caused by the advocate of the litigant with bad drafting in civil proceedings unmindful of the basic provisions of applicable substantive and procedural law. The kind of legal environment which we have, is very complicated and sheer enacted laws, is so voluminous that it would fill in few shelves in the library and though every citizen is presumed to know the law, such presumption will have to be drawn even for the professional from the legal field with few qualifications.”

“3. During the arguments on the application the Court put a query to the senior counsel for the plaintiff as to how, in view of



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*the averments in the para 9 of the plaintiff regarding the existence of the Wills ‘allegedly’ executed by the Late Shri Gopal Das Verma the suit of the plaintiff is maintainable without the relief of declaration? The reply of the senior counsel was that Wills are. not genuine, Wills are not probated and that the defendants would have to prove the Will and the plaintiff is not required to seek the relief of the declaration. The court is not saying anything on this aspect as it is sufficient to refer to the decision of the Hon’ble Delhi High Court in **Purushottam Das v. Har Narain; 1978 AIR (Delhi) 114** and the judgement of the Hon’ble Supreme Court in **Anthula Sudhakar v. P. Buchi Reddy; 2008 AIR (SC) 2033.**”*

(Emphasis supplied)

5. A court when adjudicating a case before it, should circumscribe itself to the facts of the *lis*, submissions of the parties, either written or oral; made in court, findings of the court and the conclusion/direction it seeks to pass on the basis of the record perused and the arguments advanced before it, whether documentary or oral. Any observation with regards to the skill of an advocate and judging the legal competence in a scathing tone and tenor in a judicial order is uncalled for.
6. The courts discharge their judicial functions by adjudicating the *lis* before it on the basis of facts of the case and the applicable laws and not on personal opinions of an advocate’s competence. Judicial pleadings or judicial orders have to be put on a higher pedestal holding higher sanctity. Recording of adverse remarks having no relevancy to the facts and circumstances of the case against an advocate in a judicial order is not justified.



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7. In view of the above, observations made by learned ADJ in paragraph 1 of the impugned order i.e. *“Before the Court could do the justice in a cause, a great injustice is caused by the advocate of the litigant with bad drafting in civil proceedings unmindful of the basic provisions of applicable substantive and procedural law.”* appears to be unnecessary to the facts of the present case and, therefore, are hereby expunged. As learned senior counsel is not challenging the merits of the impugned order anymore, the cost imposed by learned ADJ of Rs.10,000/-, while disposing of the impugned order, is waived of.

8. With the above observations, the present petition, along with pending application, stands disposed of.

SHALINDER KAUR, J.

MARCH 18, 2024/k/ab