



\$~58

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

+ **CM(M) 2533/2024**

SONIA DALAKOTI AND ANR.

..... Petitioners

Through: Mr. Harsh Kumar, Ms. Sikha Gogoi,
Mr. Neel Kumar Sharma, Adv.

versus

BHUPAL SINGH MANRAL

..... Respondent

Through: Mr. Anurag Ojha, Mr. Saranjit Singh
Bhalla, Mr. Deepak Somani

CORAM:

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

%

09.05.2024

CM APPL. 27573/2024—Exp.

1. Allowed, subject to all just exceptions.
2. Applications stand disposed of.

CM(M) 2533/2024, CM APPL. 27572/2024—stay

3. The present petition under Article 227 of the Constitution of India has been filed impugning the order dated 08.02.2024 passed by the learned Additional District Judge-05, East, Karkardooma Courts, Delhi in CS No.473/2017 titled as “Bhupal Singh Manral vs Sonia Dalakoti & Anr”. The petitioners are the defendants and the respondent is the plaintiff before the learned Trial Court.
4. The learned Trial Court vide the impugned order has dismissed the application filed by the petitioners under Section 151 of the Code of Civil Procedure, 1908 (“CPC”) seeking a waiver of cost imposed vide the orders dated 29.11.2023 and 18.11.2023. In order to understand why such costs



were imposed, it may be necessary to give a brief factual background.

5. The petitioner no.1 approached the respondent in 2015 as she needed a loan for an amount of Rs.1,00,000/-. Against the loan amount, the petitioner no.1 gave the respondent a blank cheque as a security. Once the petitioner no.1 returned the loan amount, she requested the respondent for the blank cheque, which was stated to be misplaced by the respondent.

6. Thereafter, the petitioners were served with a legal notice dated 23.02.2017. The petitioners replied to the said legal notice, denying all the claims made by the respondent, however, the respondent initiated proceedings against the petitioners under Section 138 read with Section 142 of the Negotiable Instruments Act, 1882.

7. The respondent then filed a summary suit against the petitioners on the basis of the aforementioned cheque wherein it was averred that the respondent was looking to purchase a property and he paid the petitioners an amount of Rs.24,00,000/- as consideration. However, since the petitioners could not find a suitable property for the respondent, they issued a cheque for an amount of Rs.20,00,000/- which came to be dishonoured due to insufficiency of funds.

8. The petitioners filed their leave to defend which came to be allowed and as per directions in the same order dated 19.10.2019, they filed their written statement as well as an application under Order VII Rule 11 of the CPC. The learned Trial Court then passed an order in favour of the respondent, however the same was set aside in appeal and the matter was remanded for fresh orders.

9. Thereafter, the respondent filed his evidence by way of affidavit on 20.10.2023 and issues were framed. The respondent also preferred an



application under Order VII Rule 14 (3) of the CPC, seeking permission to file additional documents on 26.10.2023 and an opportunity was granted to the petitioners to file a reply to the same. On the next date of hearing, the petitioners informed the court that the document filed by the respondent was in an alien language therefore a reply could not be filed to the same. The learned Trial Court however recorded that as the main counsel was not available and imposed a cost of Rs.5,000/- on the petitioners. A similar order was passed on 25.11.2023 as well.

10. The petitioners, aggrieved by the imposition of such costs, moved an application under Section 151 of the CPC, asking the respondent to supply legible copies to the petitioners. Notice was issued on this application on 29.11.2023 and the petitioners were further directed to pay a cost of Rs. 2,000/- . Under these circumstances, the petitioners were compelled to file an application under Section 151 of the CPC, seeking a waiver of costs, which came to be dismissed vide the impugned order.

11. At the outset, Mr Harsh Kumar, learned counsel for the petitioner submits that his main grievance is with respect to the dismissal of the application for waiver of costs. However, he is prepared to file a reply to the application of the respondent moved under Order VII Rule 14(3) CPC and to take all his objections in the reply to be filed by him.

12. Mr. Anurag Ojha, learned counsel for the respondent confuting the submissions of the petitioners submits that there is no infirmity or illegality with the impugned order and costs have rightly been imposed on the petitioners.

13. The learned Trial Court had granted the petitioners various opportunities to file their reply and instead of availing the opportunities, the



petitioners were adamant in not filing their reply, therefore, they were burdened with cost. It was also submitted that even if the translated copy of the documents was not furnished, the petitioners could have taken this objection in their reply and they were duly bound to follow the directions of the learned Trial Court. As the petitioners have flouted the directions of the learned Trial Court, therefore, no interference is required by this Court.

14. A very short controversy has arisen in the present case.

15. On 26.10.2023, the respondent filed an application along with an affidavit and some documents to be allowed to be placed on record. Learned Trial Court called for a reply of the application from the petitioners and had listed the application for hearing on 18.11.2023. The respondent was directed to furnish an advance copy of the reply to the petitioners. On the said date of hearing, the petitioners requested for short adjournment as the main counsel was not available. After granting a last opportunity to file reply, they were also burdened with cost of Rs. 5,000/- and the matter was posted for 25.11.2023. On the said date of hearing, again an adjournment was requested on behalf of the petitioners on the ground that the main counsel was not available. Learned Trial Court further granted an opportunity subject to cost of Rs. 5,000/- and the matter was listed for 29.11.2023. An application under Section 151 CPC was moved on behalf of the petitioners on 29.11.2023, which came to be listed for hearing on 08.02.2024 and the petitioners were directed to pay previous cost of Rs. 10,000/-.

16. It is not disputed that in the application under Section 151 CPC, the petitioners have raised objection for the first time with regard to the documents, being illegible and in an alien language, therefore, the reply



could not be prepared. On 08.02.2024, another application under Section 151 of the CPC was moved seeking waiver of cost. Learned Trial Court dismissed the application seeking waiver of cost and granted another opportunity to the petitioners to file reply to the application under Order VII Rule 14(3) CPC, subject to further cost of Rs. 2,000/-.

17. Needless to say, the petitioners for the first time had brought to the notice of the Court that the documents were illegible by moving an application under Order Section 151 CPC on 29.11.2023 whereas on the previous two dates of hearing, adjournment was requested as the main counsel was not available. However, the copies of documents have been produced before this Court and undisputedly, the documents are in foreign language.

18. The petitioners have submitted before this Court that they shall be filing a reply to the application under Order VII Rule 14(3) CPC before the learned Trial Court, accordingly, the petitioners are directed to file a reply within 10 days from today and the costs imposed of Rs. 5,000/- on 26.10.2023 and Rs. 2,000/- on 08.12.2023 stands waived of, however, the petitioners shall pay the cost of Rs. 5,000/- imposed on 18.11.2023 as the second adjournment was requested due to non-availability of the counsel.

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

SHALINDER KAUR, J

MAY 9, 2024/ss