



2024:DHC:4633



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

% **Date of order: 27th May, 2024**

+ **W.P.(C) 7652/2024 and CM APPL. 31825/2024**

R B SETH JESSA RAM HOSPITAL AND BROS Petitioner

Through: **Mr.Kunal Nath, Advocate (Through VC)**

versus

RAMESH CHAND Respondent

Through: **Mr.Rishi Nandy, Advocate**

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

CHANDRA DHARI SINGH, J (Oral)

CM APPL. 31826/2024 (Exemption)

Exemption allowed subject to just exceptions.

The application stands disposed of.

W.P.(C) 7652/2024

1. The instant petition under Article 226 of the Constitution of India has been filed on behalf of the petitioner through its authorized representative i.e., Sh. Harshit Gupta seeking waiver of the cost of Rs.10,000/- imposed upon it *vide* the impugned order dated 29th April, 2024 passed by the learned POIT-II/RACC, New Delhi in OP No. 14/2016.

2. The relevant facts leading to the filing of the instant petition are as

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under:

- a. The petitioner i.e., R B Seth Jessa Ram Hospital and Bros is a trust, who is a party to the industrial dispute titled "*R.B. Seth Jessa Ram Hospital versus Ramesh Chand*" which is *sub-judice* before the learned Labour Court, and presently is at the stage of arguments on the preliminary issues.
- b. The aforesaid dispute had been fixed for arguments on 23rd February, 2024, however, owing to the fact that the learned Presiding Officer was on leave, the matter was adjourned for 12th April, 2024.
- c. On the next date of hearing i.e., 12th April, 2024, the main counsel appearing on behalf of the petitioner in the said dispute could not appear as she was suffering from an injury therefore, upon request, the matter was adjourned for 29th April, 2024.
- d. Thereafter, the counsel for the petitioner on 29th April, 2024 yet again failed to appear before the learned Court below as she was travelling to Dubai. Pursuant to the conduct of the petitioner therein i.e., seeking repeated adjournments, the learned Labour Court adjourned the matter for 27th May, 2024 while imposing a cost of Rs. 10,000/-.
- e. Being aggrieved by the same, the petitioner has approached this Court seeking waiver of the cost imposed by the learned Labour Court.

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3. Learned counsel appearing on behalf of the petitioner submitted that the impugned order is bad in law as the cost imposed therein is arbitrary and unwarranted.

4. It is submitted that on the earlier occasions i.e., 12th April, 2024, and 29th April, 2024, when the matter was adjourned due to the petitioner's volition, the main counsel appearing on behalf of the petitioner in the said dispute had a sufficient cause as on the first occasion, she was bed ridden due to an injury, while on the second occasion, she had to urgently travel abroad. It is further submitted that the copy of the ticket was duly placed on the record of the learned Labour Court and thus, the adjournments sought were due to *bona fide* reasons for which the petitioner may be reprimanded.

5. It is submitted that it was never the intention of the petitioner to derail the process of law and no prejudice has been caused to either of the parties as the matter was not at the stage of evidence. It is further submitted that a hefty cost of Rs.10,000/- is unwarranted and grave injustice will be caused to the petitioner if the impugned order, by virtue of which, the cost has been imposed is not set aside.

6. Therefore, in view of the foregoing submissions, it is submitted that the instant petition may be allowed and the cost imposed by the learned Labour Court may be waived of as prayed for.

7. *Per Contra*, the learned counsel appearing on behalf of the respondent vehemently opposed the instant petition submitting to the effect that the same is liable to be dismissed being devoid of any merits.

8. It is submitted that the instant petition is misconceived and filing of

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the same is an abuse of process of law. It is further submitted that the cost imposed by the learned Labour Court is in accordance with the law and there is no illegality of any kind thereto, as the petitioner had been taking unnecessary adjournments in order to derail the process of law.

9. Therefore, in view of the foregoing submissions it is submitted that the instant petition may be dismissed and the cost imposed by the learned Labour Court shall not be waived of.

10. Heard the learned counsel appearing on behalf of the parties and perused the material on record.

11. The petitioner has approached this Court seeking waiver of the cost of Rs. 10,000/- imposed *vide* the impugned order dated 29th April, 2024. The relevant extracts of the impugned order are as under:

“ ..One photocopy of the ticket of main AR Ms. Deepa Sharma going to Dubai on 26.04.2024 placed on record by AR for the Management seeking adjournment on the ground that main AR is in Dubai and shall return around 22.05.2024.

Record reveals that this was the last opportunity for Management.

In the interest of justice, adjournment is allowed subject to a cost of Rs. 10,000/-.

Put up for payment of cost and for purpose fixed, last opportunity for the Management, for 27.05.2024.

At this stage, it is submitted by AR for the Management that he has instructions from the main AR that she shall file written submissions....”

12. Upon perusal of the aforesaid extracts of the impugned order, it is made out that the learned Labour Court had imposed a cost of Rs.10,000/- upon the petitioner herein in the light of the said date being the last

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opportunity for the petitioner therein to lead the arguments.

13. Insofar as the settled position of law is concerned, this Court is of the considered view that time is a crucial element in the dispensation of justice and it is the responsibility of the entire legal fraternity to ensure that efforts for speedy justice are not thwarted. The delay caused in delivering justice has discouraged the litigants from approaching the Courts and has eroded the faith of the public in the justice system.

14. The Hon'ble Supreme Court in its recent judgment passed in ***Yashpal Jain v. Sushila Devi*, 2023 SCC OnLine SC 1377**, emphasised upon the importance of speedy delivery of justice and opined that adjournments are one of the major reason for delay in the judicial system. The relevant extracts are as follows:

“..31. Apart from the above reasons, the other vital reasons include the over-tolerant nature of the courts below while extending their olive branch to grant adjournment at the drop of the hat and thereby bringing the entire judicial process to a grinding halt. It is crucial to understand that the wheels of justice must not merely turn, they must turn without friction, without bringing it to a grinding halt due to unwarranted delay. It is for such reasons that the system itself is being ridiculed not only by the litigant public but also by the general public, thereby showing signs of constant fear of delay in the minds of public which might occur during the resolution of dispute, dissuading them from knocking at the doors of justice. All the stakeholders of the system have to be alive to this alarming situation and should thwart any attempt to pollute the stream of judicial process and same requires to be dealt with iron hands and curbed by nipping them at the bud, as otherwise the confidence of the public in the system would slowly be

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eroded. Be it the litigant public or Member of the Bar or anyone connected in the process of dispensation of justice, should not be allowed to dilute the judicial processes by delaying the said process by in any manner whatsoever. As held by this Court in T. Arivandandam v. T.V. Satyapal AIR (1977) 4 SCC 467 the answer to an irresponsible suit or litigation would be a vigilant judge. This analogy requires to be stretched in the instant case and to all the pending matters by necessarily holding that every stakeholder in the process of dispensation of justice is required to act swiftly, diligently, without giving scope for any delay in dispensation of justice. Thus, an onerous responsibility rests on the shoulders of the presiding officer of every court, who should be cautious and vigilant against such indolent acts and persons who attempt to thwart quick dispensation of justice. A response is expected from all parties involved, with a special emphasis on the presiding officer. The presiding officer must exercise due diligence to ensure that proceedings are conducted efficiently and without unnecessary delays. While it's important to maintain a friendly and cooperative atmosphere with the members of the Bar, this should not be misused as a pretext for frequent adjournment requests. A word of caution to the learned members of the Bar, at this juncture, would also be necessary because of they being considered as another wheel of the chariot of dispensation of justice. They should be circumspect in seeking adjournments, that too in old matters or matters which have been pending for decades and desist from making request or prayer for grant of adjournments for any reason whatsoever and should not take the goodness of the presiding officer as his/her weakness...”

15. At this juncture, it is also pertinent to refer to Order XVII of the Code of Civil Procedure, 1908 ('CPC' hereinafter), which deals with adjournments. The legislative intent behind the said provision was not to



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make the judicial process bend to the needs of the convenience of the parties rather, was to ensure that a reasonable opportunity is granted to the parties to cater to exigent circumstances. Rule 1 of Order XVII of the CPC makes it amply clear that adjournment can only be granted in very specific circumstances. The relevant extracts of the said provision is as under:

“...1. Court may grant time and adjourn hearing.— [(1) The court may, if sufficient cause is shown, at any stage of the suit grant time to the parties or to any of them, and may from time to time adjourn the hearing of the suit for reasons to be recorded in writing: Provided that no such adjournment shall be granted more than three time to a party during hearing of the suit.]

(2) Costs of adjournment.—In every such case the Court shall fix a day for the further hearing of the suit, and [shall make such orders as to costs occasioned by the adjournment or such higher costs as the court deems fit:] [Provided that,—

(a) when the hearing of the suit has commenced, it shall be continued from day-to-day until all the witnesses in attendance have been examined, unless the Court finds that, for the exceptional reasons to be recorded by it, the adjournment of the hearing beyond the following day is necessary.

(b) no adjournment shall be granted at the request of a party, except where the circumstances are beyond the control of that party.

(c) the fact that the pleader of a party is engaged in another Court, shall not be a ground for adjournment.

(d) where the illness of a pleader or his inability to conduct the case for any reason, other than his being engaged in another Court, is put forward as a ground for adjournment, the Court shall not grant the adjournment unless it is satisfied that the party applying for adjournment could not have engaged another pleader in time.

(e) where a witness is present in Court but a party or his

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pleader is not present or the party or his pleader, though present in Court, is not ready to examine or cross-examine the witness, the Court may, if it thinks fit, record the statement of the witness and pass such orders as it thinks fit dispensing with the examination-in-chief or cross-examination of the witness, as the case may be, by the party or his pleader not present or not ready as aforesaid.]...”

16. This Court is of the view that it is regretful that adjournment has become a tool of convenience, which is being constantly misused by the pleaders in delaying the cause of litigants. Pleadings are well versed with the law and being the officers of the Court, they are not only entrusted with the onus to guide and aid their litigants with regard to the procedure of law but also to make sure that they themselves are acting in strict accordance of the same.

17. This Court is further of the view that it is the need of the hour that adjournments should strictly only be granted if exceptional circumstances squarely fall within the conditions stipulated for under the respective procedures of law and the same shall not be a matter of routine.

18. In the instant matter, the learned Labour Court was lenient in granting adjournment on the first occasion, when the pleader was bedridden due to an injury. The leniency and consideration of the learned Labour Court should not have been taken for granted to travel abroad and delay the dispensation of justice. Delay itself amounts to derailing the process of adjudication thus, contravening the constitutional vision of speedy justice when the matter before the learned Court below was fixed for arguments on preliminary issue

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and the petitioner was granted the last opportunity for the same.

19. In this backdrop, it is held that the learned Labour Court did not commit any error of law in imposing the cost of Rs.10,000/- upon the petitioner and the said order is neither arbitrary nor unreasonable.

20. In view of the foregoing discussions, this Court is of the considered view that the instant matter does not warrant interference of the writ jurisdiction and hence, the impugned order dated 29th April, 2024 passed by the learned POIT-II/RACC, New Delhi in OP No. 14/2016 is upheld.

21. Accordingly, the instant petition stands dismissed. Pending applications, if any, also stand dismissed.

22. The order be uploaded on the website forthwith.

CHANDRA DHARI SINGH, J

MAY 27, 2024

dy/ryp/da

Click here to check corrigendum, if any

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