



2024:DHC:6179



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of decision: 14th August, 2024***+ **CM(M) 3165/2024 & CM APPL. 46587-46588/2024****KAMAL ARORA**

.....Petitioner

Through: Mr Jai Wadhwa with Mr. Ronak
Karanpuria, Advocates.
(through video conferencing)

versus

GIRIRAJ GUPTA

.....Respondent

Through: None.

CORAM:**HON'BLE MR. JUSTICE MANOJ JAIN****J U D G M E N T (oral)**

1. Petitioner is defendant No.1 before the learned Trial Court and is aggrieved by the order whereby his defence was struck off on 27.05.2022 and is also aggrieved by order dated 08.04.2024 whereby his application seeking recall of the above order has also been dismissed.
2. The broad facts are not disputed.
3. The plaintiff had filed a suit for recovery against two defendants on 10.03.2021.
4. Admittedly, defendant No.1 (petitioner herein) was served on 15.09.2021.
5. Fact remains that despite service and despite appearance before



the learned Trial Court by the said defendant, no written statement was filed and, resultantly, on 27.05.2022 his defence was struck off.

6. During course of the arguments, learned counsel for the petitioner states that the petitioner, on account of financial handicap, could not contact any private counsel and was, therefore, forced to knock the doors of legal aid and when a counsel was provided by DLSA, he moved an application seeking recalling of the order whereby his defence had been struck off.

7. However, even such argument does not cut ice as the learned Trial Court has, very rightly, observed in the impugned order that there were two more matters involving the same defendant and in those two matters, admittedly, the petitioner herein had engaged a private counsel.

8. The delay in the case in hand is not small or trivial. The delay is reportedly of 477 days and there is no ground, whatsoever, to come to the rescue of the petitioner, who himself is guilty of inaction and laches.

9. In view of the aforesaid, I do not find it to be a fit case where the Court should exercise its supervisory powers under Article 227 of the Constitution of India.

10. This Court is very much conscious of the fact that the present petition has been filed under Article 227 of the Constitution of India whereby the Court is required to exercise its supervisory powers. The



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duty of the supervisory Court is to interdict if it finds that the findings are perverse i.e. (i) Erroneous on account of non-consideration of material evidence, or (ii) Being conclusions which are contrary to the evidence, or (iii) Based on inferences that are impermissible in law. Reference be made to *Puri Investments Versus Young Friends and Co. and Others: 2022 SCC OnLine SC 283*.

11. The petition is, accordingly, dismissed *in limine*.

(MANOJ JAIN)
JUDGE

AUGUST 14, 2024
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