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

% *Date of decision: 4th November, 2024*

+ **C.R.P. 323/2024, CM APPL. 64515/2024**

R.K SHARMA

.....Petitioner

Through: Mr. V.P. Sharma, Advocate.

versus

BSES YAMUNA POWER LTD. & ANR.

.....Respondents

Through: None.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

CM APPL. 64516/2024 (Seeking Exemption)

1. Allowed, subject to just exceptions.
2. The application is accordingly disposed of.

C.R.P. 323/2024

3. A Revision Petition under Section 115 of the CPC has been filed on behalf of the Revisionist against the Order dated 12.09.2024 whereby the Petition under Section 24 CPC seeking transfer of Civil Appeal No.RC ADJ No-I-23 from the Court of Learned ADJ on the ground of apprehension of bias and unfair treatment during the proceedings, has been dismissed. The grounds on which the concerns were expressed on behalf of the Revisionist to seek transfer are as under :

- (i) *Repeated acceptance of the delayed reply filed by the opposite party despite the lapse of considerable time, which was highly prejudicial to the petitioner.*
- (ii) *Imposition of costs on the petitioner during the*



proceedings on 11.03.2024, without proper justification or consideration of the circumstances leading to his presence on that particular date ON LINE and physically as well .but the learned court was not sitting in the court hours when learned counsel reached from High Court.

(iii) The appellate court's insistence on giving "short dates" for hearings, indicating undue urgency and pressure on the petitioner, which made it difficult for him to prepare effectively.

4. It is submitted that despite all these concerns, the legitimate apprehension of bias of the petitioner was not acknowledged and his Transfer Application was dismissed on wrong appreciation of facts and record. Short dates were being granted by the Court for disposal of his Appeal, which further compounded the petitioner's apprehension of being unfairly treated by the Appellate Court. On 12.09.2024 petitioner's counsel Mr. V.P. Sharma faced significant difficulties with the Virtual Court's audio system leading to repeated interruptions in the proceedings. However, despite technical challenges and bringing the same to the notice of the Court, the Court refused to address the concern seriously and made the computer system mute and heard the respondent ex-parte which further exaggerated the petitioner's belief of bias.

5. The grounds on which the impugned Order is challenged is that there is apprehension of bias on account of acceptance of delayed submissions by respondent, denial of effective hearing, imposition of cost by the plaintiff, and granting of short dates leading to undue pressure. It is, therefore, submitted that the impugned Order dated 12.09.2024 of the learned Principle District Judge, Delhi be recalled and the Appeal No.RC ADJ No-I-23 pending in the Court of learned Addl. District Judge, Delhi, be transferred to



some other competent Court.

6. The learned Principle District & Sessions Judge in detailed Order has noted that when the learned counsel was asked to address arguments, the prompt response was that all the averments are written in the Application. The learned counsel appearing today in the Court, has submitted that he had eventually appeared in person in the Court. His averment that he was not heard are misfounded, from his own submissions.

7. The *second aspect* is the imposition of the cost, but it is clearly recorded in the Order that when asked to move an Application for waiver of the cost, he declined by submitting that it was self evident and no separate Application was required to be moved.

8. The learned Principle District & Sessions Judge has given cogent explanation for not entertaining the Transfer Application. The only ground agitated was the short dates which had given a misapprehension of bias and allegedly create a pressure on the counsel to appear on such short dates. Mere short dates in an endeavour to expeditious disposal of the pending matter, cannot be termed as reflecting Bias.

9. There is no merit in the grounds as agitated by the learned Counsel for Petitioner to challenge the Impugned Order dated 12.09.2024 of the learned Principle District & Sessions Judge dismissing the Transfer Application.

10. The present Revision Petition is accordingly, dismissed and disposed of along with the pending Application(s).

(NEENA BANSAL KRISHNA)
JUDGE

NOVEMBER 4, 2024

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