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

+ **W.P.(C) 15784/2024**

DEEPAK SINGH THAKUR

.....Petitioner

Through: Ms. Bhavna Sharma, Mr. Prashant,
Advocates with P-1 & P-2 in person

versus

HIGH COURT OF DELHI THROUGH REGISTRAR GENERAL

.....Respondent

Through: Dr. Amit George, Mr. Adhishwar
Suri, Mr. Dushyant Kaul, Advocates
for R-1
Mr. Anurag Ahluwalia, CGSC for
UOI
Mr. Satyakam, ASC for GNCTD

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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13.11.2024

CM APPL. 66198/2024 (Exemption)

1. Exemption is granted, subject to all just exceptions.
2. The Applicant shall file legible and clearer copies of exempted documents, compliant with practice rules, before the next date of hearing.
3. Accordingly, the application stands disposed of.

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4. The Petitioner has filed the present petition seeking clarification regarding the applicability and status/ nomenclature of Order XV-A of the



Code of Civil Procedure, 1908¹ as amended on 23rd October, 2015 and Order XV-A of the CPC as amended by Notification No. 324/Rules/DHC dated 12th November, 2008.

5. The Order XV-A was initially introduced in the CPC on 12th November, 2008 *vide* Notification No. 324/Rules/DHC of the Hon'ble High Court of Delhi under the title of “*Striking off Defence in a Suit by a Lessor*”.

6. However, on 23rd October, 2015, pursuant to the enactment of the Commercial Courts Act, 2015, a new chapter was introduced in the first schedule of the CPC, inserting an order numbered as Order XV-A titled “*case management hearing*”. This was noticed by this Court in CS(OS) 88/2016 titled as “***Shri Rajiv Kumar Goel v. Shri Lalit Kumar Goel***” by an order dated 20th January, 2017, whereby this Court made the following observations:

“The learned counsel for the defendant submits reply has already been filed but the same has not come on record. The counsel for the plaintiff/applicant also needs time to file a rejoinder. The defendant shall take requisite steps to ensure that the reply comes on record and the plaintiff may file rejoinder to the reply, copy of which has already been served, within three weeks.

The application shall be taken up for hearing and disposal on 22.05.2017.

The application at hand has brought to the fore a confusion that now prevails on account of amendment of the Code of Civil Procedure, 1908 by this court vide Notification No.324/Rules/DHC, dated 12th November, 2008, published in the Delhi Gazette, Extra., Pt. IV, No.179, dated 14th November, 2008 whereby Order XVA titled “striking off defence in a suit by a lessor” was inserted.

The Parliament enacted the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 which, upon assent being accorded by the President of India, has come into operation as Act No.4 of 2016 and came into force vide Notification published in Gazette of India, Extra., Pt. II, Sec.1,

¹ “CPC”



No.4, dated 1st January, 2016. By the said enactment, the Code of Civil Procedure was amended for purposes of its application to the litigation that comes before the Commercial Courts, Commercial Divisions and Commercial Appellate Divisions of High Courts. Certain amendments to the Code of Civil Procedure has been brought about through the provision contained in Section 16 of the said Act and are set out in the schedule appended thereto. As per clause 7 of the said schedule, a new Chapter has been added in the first schedule to the Code of Civil Procedure inserting Order XVA titled “case management hearing”.

In this manner, there are now two Chapters in the first schedule appended to the Code of Civil Procedure, both known as Order XVA, one generally for the civil suits and the other for commercial disputes. The fact that both are labelled as Order XVA of the Code of Civil Procedure is bound to create some confusion. This needs to be sorted out, possibly, and simply, by renumbering the one inserted by High Court amendment.

For the above, subject to orders of Hon’ble the Chief Justice, the matter needs to be referred to the Rules Committee for consideration and appropriate decision.

The Registrar General shall place a copy of this order before Hon’ble the Chief Justice for necessary directions.”

7. In compliance with the aforementioned observations, the Delhi High Court Rules Committee, under Section 123 of the CPC, examined the issue and recommended that in order to avoid confusion, Order XV-A titled “*Striking off Defence in a Suit by a Lessor*”, which was introduced in CPC through this Court’s Notification No. 324/Rules/DHC dated 12th November, 2008, be renumbered as Order XXXIX-A and placed under the existing Order XXXIX titled “*Temporary Injunctions and Interlocutory Orders*”. The proposed amendments, after the approval of the Full Court, were published in the Delhi Gazette *vide* Notification No. 63/Rules/DHC dated 13th July, 2022, inviting objections, if any, from the public at large within a period of one month, *i.e.*, 30 days from the date of publication.

8. In response thereto, Mr. Sunil Goel, Advocate, forwarded point-wise suggestions/objections through e-mail dated 08th August, 2022, which were



then placed before the Rules Committee. The Committee considered and deliberated on the said suggestions/objections in their meeting held on 11th April, 2023, and made recommendations under Section 123 of CPC. Subsequently, the then Hon'ble the Acting Chief Justice and his companion Judges, in the Full Court meeting on 19th February, 2024, approved that Order XV-A titled "*Striking off Defence in a Suit by a Lessor*" introduced in the CPC, be re-numbered as VIII-A and placed after the existing Order VIII titled "*Written Statement, Set-off and Counter-claim*".

9. It is pertinent to note that the procedure for making rules under Part X of the CPC is contained in Rules 3 to 6 of Part B of Chapter 9 of Volume V of Delhi High Court Rules & Orders. According to these rules, if the amendments in existing Rules in various Orders in the First Schedule of the CPC, 1908 are approved by the Full Court, the same shall be published in the Delhi Gazette for inviting objections, if any. On termination of the period fixed for inviting objection, the matter shall be laid again before the Full Court, with objections, if any. On finalization of the rules, approval of the Central Government under Section 126 of the CPC shall be required, before they are published in the Delhi Gazette.

10. Since the proposed amendments required approval of the Central Government under Section 126 of CPC, the Registrar General of this Court sent a communication dated 14th March, 2024 to the Principal Secretary (LJ & LA), Government of NCT of Delhi, Delhi Secretariat, I.P. Estate, New Delhi in order to obtain approval of the Central Government and convey the same to this Court.

11. Since no response was received, the Registrar General sent reminders on 25th April, 2024, 13th September, 2024 and then recently, on 04th



November, 2024. However, despite the aforementioned reminders, no action has been taken.

12. In the opinion of the Court, the present petition raises a pertinent issue as to the contradiction in the terminology and status of Order XV-A of the CPC, which raises a possibility for confusion, and needs to be redressed by an appropriate clarification.

13. Considering the aforementioned issue, the Government of NCT of Delhi and Union of India are impleaded as parties to the present petition as Respondent No. 2 and Respondent No. 3, respectively. Let the amended memo of parties be filed within a period of one week from today.

14. In light of the foregoing, Respondent No. 2 is directed to follow up with the Central Government for their approval in terms of the aforementioned notification in a time-bound manner, preferably within a period of four weeks from today. Mr. Anurag Ahluwalia, CGSC for Union of India and Mr. Satyakam, ASC for GNCTD are requested to coordinate with the respective Departments, so that the approval as requested is processed expeditiously, without further delay.

15. The Registry is directed to communicate this order to Mr. Anurag Ahluwalia, CGSC for Union of India as well as Mr. Satyakam, ASC for GNCTD, through email.

16. With the above directions, the present petition is disposed of.

SANJEEV NARULA, J

NOVEMBER 13, 2024/ab