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

+ **CM(M) 380/2025**

VISHAL SHARMA

.....Petitioner

Through: **Ms. Akansha Sisodia, Adv.**

versus

DINESH KUMAR GUPTA & ANR.

.....Respondents

Through: **None.**

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

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24.02.2025

CM APPL. 11206/2025 EXEMPTION

Allowed, subject to all just exceptions.

The application stands disposed of.

CM(M) 380/2025 & CM APPL. 11205/2025 STAY

1. This is a petition under Article 227 of the Constitution of India, impugning the order dated 19.11.2024, passed by the learned District Judge in CS No. 151/2021, titled "*Dinesh Kumar Gupta & Ors. Vs. Vishal Sharma & Ors.*"
2. Vide impugned order dated 19.11.2024, the learned trial court dismissed the application filed by the petitioner for waiver of cost of Rs. 50,000/- imposed on him vide order dated 02.11.2023 while allowing his application under Order 9 Rule 7 CPC.



3. Learned counsel submits that petitioner has been suffering from significant financial hardship due to liquidation of his company and critical illness of his father, and therefore being unable to bear the financial burden of Rs. 50,000/-, he moved an application for waiver but the learned trial court ignoring the fact of financial hardship and critical illness of the father of the petitioner, dismissed the said application, thereby, depriving the petitioner of the right to defend the suit.

4. A perusal of the record reveals that respondent filed a civil suit for recovery against the petitioner. Petitioner was proceeded ex-parte vide order dated 05.10.2021.

5. Petitioner filed an application under Order 9 Rule 7 CPC on 11.03.2022. Such application was allowed subject to cost of Rs. 50,000/- vide order dated 02.11.2023.

6. Petitioner did not make the payment of cost, and therefore, vide order dated 19.07.2024, petitioner was once again directed to pay the cost within five working days, failing which, it was directed that he shall be treated as ex-parte in the matter.

7. Instead of making the payment of cost, petitioner filed an application on 19.11.2024 arguing that the cost imposed on 02.11.2023 was exorbitant and that due to mistake of the petitioner, such an exorbitant cost ought not to be imposed. However, the application was dismissed by the trial court observing that the parties cannot be permitted to set to naught the efforts of the court for expeditious trial by simply opting to remain indolent.

8. It is evident from the record that the suit was filed way back in the year 2021 and petitioner was proceeded ex-parte on 05.10.2021. The ex-parte order was set aside subject to cost of Rs. 50,000/-. Petitioner did not



challenge the order dated 02.11.2023 nor paid the cost and rather filed the application for waiver of cost more than one year since after the imposition of cost. Petitioner could have either challenge the order of imposition of cost or should have complied with the same. The order dated 02.11.2023 has attained finality and could not have been challenged indirectly after one year by filing the application for waiver of cost.

9. Petitioner by his conduct has not allowed the trial to proceed further. The Court finds no illegality or perversity in the impugned order dated 19.11.2024 passed by the learned trial court.

10. I find no merit in the petition. The petition is therefore dismissed.

RAVINDER DUDEJA, J.

FEBRUARY 24, 2025

RM