



\$~45

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

+ CM(M) 459/2025

ANKIT RATHI

.....Petitioner

Through: Mr. Raj Kumar, Adv.

versus

THE EXECUTIVE ENGINEER & ORS.

.....Respondents

Through: Mr. Shiven Varma, Adv. GNCTD for
R-1.

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

%

07.03.2025

CM APPL. 13798/2025 (EXEMPTION)

Allowed, subject to all just exceptions.

The application stands disposed of.

CM(M) 459/2025 & CM APPL. 13797/2025 (STAY)

1. The petitioner challenges the order dated 31.01.2025 passed by the learned District Judge-01, Shahdara, Karkardooma Courts, Delhi in Civil Suit No.527/2021 titled as "Ankit Rathi Vs. The Executive Engineer & Others".
2. Petitioner filed a recovery suit for Rs.50,00,000/- against the respondents. Respondent no.1 did not file the written statement within the stipulated period, and therefore, the trial court vide order dated 05.04.2022 closed the right of respondent no.1 to file the written statement.
3. Respondent no.1 filed an application under Section 151 CPC seeking to recall of the order dated 05.04.2022 which was allowed by order dated



10.04.2024 subject to cost of Rs.25,000/-, out of which, Rs.15,000/- were ordered to be deposited with Shahdara Bar Association for the welfare of the Advocates and rest Rs.10,000/- were to be paid to the petitioner.

4. Respondent no. 1 again filed an application u/s 151 for waiver of the cost. On such application, the cost was reduced from Rs.25,000/- to Rs.5000/- and the written statement filed by respondent no.1 was taken on record vide impugned order dated 31.05.2025.

5. Learned counsel for the petitioner is mainly aggrieved by the reduction of cost. It is submitted that despite the delay in filing the written statement, for no reason the trial court has proceeded to reduce the cost, and therefore, the impugned order is liable to be set aside.

6. Per contra, learned counsel for the respondent no.1 states that the justification for reduction of cost is mentioned in his application filed before the trial court.

7. As per order dated 10.04.2024, the trial court was of the view that the application filed by the respondent seeking recall of the order dated 05.04.2022 was too vague to be considered and deserved dismissal outrightly. However, in the interest of justice, the application was allowed, subject to cost of Rs.25,000/-.

8. On a perusal of the order dated 31.01.2025, it is evident that learned trial court did not assign any reason whatsoever for reduction of cost from Rs.25,000/- to Rs.5000/-.

9. It is not understood as to what prompted the trial court to reduce the cost, once having concluded that the application for seeking permission to file the written statement was too vague.

10. Since the trial court has failed to assign any reason for reduction of



cost, and even otherwise on merits also, there is just explanation for reducing the cost, in these circumstances, I am unable to sustain the impugned order dated 31.01.2025 to the extent it reduces the cost.

11. The petition is therefore allowed in terms of the above order.

RAVINDER DUDEJA, J

MARCH 7, 2025/ib/f/r