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

% ***Date of Decision: 22nd April, 2025***

+ **CM(M) 713/2025 & CM APPL. 23065/2025 & CM APPL.23066/2025**

TARSEM LAL BAJAJPetitioner

Through: **Mr. Chaitanya Parihar, Advocate.**
(through V.C.)

versus

SMT DEEPA GARG & ANR.Respondents

Through: **Mr. Jitender Kumar Dhingra with**
Mr.Tushar Arora, Advocates.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Petitioner is plaintiff before the learned Trial Court and has filed a suit seeking recovery of Rs.4,73,880/- along with interest.
2. The suit was instituted way back in the year 2016 and, initially, *ex-parte* judgment was passed in favour of the plaintiff on 23.04.2018.
3. Fact remains that thereafter the defendants put in appearance and on the basis of one application filed by them under Order IX Rule 13 CPC, such judgment was set aside and after completion of pleadings, the matter is now at the stage of recording of plaintiff's evidence.
4. It was at the abovesaid stage that the plaintiff moved an application under Order VII Rule 14 CPC. It was averred therein that he had engaged another Counsel in April, 2024 and when his second Counsel inspected the file, he noticed certain whatsapp chats along with transcription of conversation between the plaintiff and defendants had not been placed on record.



5. According to plaintiff, such transcription had been handed over to the previous counsel and he was all along under the impression that the same had already been placed on record and it was in the abovesaid backdrop while contending that such conversation and transcript is material and necessary for deciding the real controversy, a request was made before the learned Trial Court to take the same on record.
6. Such request has been declined by the learned Trial Court vide order dated 25.01.2025 and the present petition has been filed under Article 227 of the Constitution of India, challenging the abovesaid order.
7. According to learned counsel for the petitioner/plaintiff, the abovesaid transcription is imperative to reach the truth and also to reach to the root of the matter and, therefore, merely on the basis of there being delay in filing such application, the request should not have been declined.
8. As already noticed, the suit was filed in the year 2016 and when the matter was being proceeded against *ex-parte*, the plaintiff had also entered into witness box and had also led his *ex-parte* evidence. It is hard to believe that at that stage, he failed to take note of the fact such transcription and conversation were not part of the record.
9. For proving his case at that particular stage, he submitted his affidavit and must have learnt that such transcription was not part of the record. The *ex-parte* judgment also, categorically, refers to his affidavit (Ex.PW1/A) and also various documents which he had submitted in support of his such affidavit. Though copy of the plaint has not been placed on record but, when asked, learned counsel for the petitioner, in all fairness, admitted that there is no averment to the abovesaid conversation even in the plaint.



10. Much water has flown down the river as the suit was instituted in the year 2016. As per the impugned order also, the issues were framed way back in the year 2021 and the plaintiff had been, repeatedly, asked to lead evidence but plaintiff himself has been seeking adjournments. So much so, learned Trial Court has noted in the impugned order that the plaintiff had even been given last opportunity to lead his evidence and that instead of leading evidence, the plaintiff has rather come up with the abovesaid application, actually speaking.

11. Such laidback and casual approach shown by the plaintiff does not necessitate any interference by this Court by invoking its supervisory powers under Article 227 of the Constitution of India.

12. The learned Trial Court seems to have exercised its discretion, while dismissing the application moved under Order VII Rule 14 CPC, in a judicious manner. Such discretionary exercise of power should not be, ordinarily, interfered with, unless and until there is some illegality or perversity in the impugned order. Nothing of that kind exists herein.

13. The relevant portion of the impugned order reads as under:-

“The Ld. Counsel for plaintiff is claiming that though the plaintiff had handed over whatsapp chat along with transcript to his previous counsel but the same could not be filed on record. No submission is being made that the plaintiff has taken any action against the said previous counsel. No affidavit of the said previous counsel has been filed to support that he has received the whatsapp chat of the transcript from the plaintiff but could not file on record due to any inadvertence. In such circumstances, it would not be proper to accept the bare claim of the plaintiff. No doubt, a liberal approach needs to be adopted but there must be some kind of semblance of justification at least which can allow burdening the opposite side with fighting against additional documents. It is not as if any litigant can be allowed to play with the procedure as per his whims and fancies simply because the procedural law are treated as flexible. If this is accepted, then every litigant will



*simply blame all their counsel and ask the court to give him further opportunity. **The application is dismissed.***”

14. The abovesaid reasoning seems to be well-founded and there is no reason to come to any different opinion either. This Court also notices that of late, there is growing tendency to seek relief by shifting the entire burden on to the previous Counsel. At times, some such parties get relief even, resulting in condemning the previous Counsel without, at least, having his version or response. Such practice needs to be deprecated and discouraged.
15. Be that as it may, this Court does not find any merit or substance in the present petition. The same is, accordingly, dismissed.
16. All the pending applications also stands disposed of in aforesaid terms.

(MANOJ JAIN)
JUDGE

APRIL 22, 2025
st/pb