



2025:DHC:7216



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

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Date of Decision: 12.08.2025+ **W.P.(C) 11931/2019, CM APPL. 48890/2019****M/S KING DORIAN EXPORTS**

.....Petitioner

Through: Mr. Imran Ali, Ms. Aanchal and Mr.
M.Z. Khan, Advs.

versus

DUDH NAAT

.....Respondent

Through: None.

CORAM:**HON'BLE MS. JUSTICE TARA VITASTA GANJU****TARA VITASTA GANJU, J.: (Oral)**

1. None appears for the Respondent.
2. Given that the matter is pending for the last six years, this Court deems it apposite to hear the matter today.
3. The record reflects that the learned Labour Court had by order dated 04.09.2019 [hereinafter referred to as "Impugned Order"] dismissed the Application under Order IX Rule 13 of the Code of Civil Procedure, 1908 [hereinafter referred to as "CPC"] for setting aside award dated 09.07.2018 [hereinafter referred to as "Impugned Award"] by directing that notice would be issued, subject to a pre-condition of deposit 100% of the awarded amount by the Petitioner. This direction however was not complied with by the Petitioner and instead the Petitioner filed an Application under Section 151 CPC seeking a waiver of the direction to depositing of 100% awarded amount [hereinafter referred to as "Application"] before the learned Labour Court.
 - 3.1 This Application was dismissed by the learned Labour Court by its



order dated 19.09.2019. Subsequently, a recovery certificate dated 22.10.2019 was issued against the Petitioner seeking recovery of Rs.4,37,428/- [hereinafter referred to as "Recovery Certificate"].

4. The present Petition has thus been filed seeking to set aside:

- (i) An ex parte Award dated 09.07.2018 passed in ID No. 8183-16 titled as Sh. Dudh Nath Vs M/s King Dorian Export;
- (ii) Orders dated 04.09.2019 and 19.09.2019 passed by the learned Labour Court;
- (iii) Recovery Certificate dated 22.10.2019.

The Petitioner has also prayed that he be permitted an opportunity to be heard by the learned Labour Court.

5. Learned Counsel for the Petitioner submits that the Petitioner was never served in this matter. It is submitted that there were 14 similar Petitions filed by the Respondent/Workman against the Petitioner and although served in the others, no Notice was received in this Petition. It is further submitted that on the first date of non-appearance, the Petitioner was proceeded with *ex parte*. It is further contended that most of these Petitions have already been decided by the learned Labour Court in favour of the Petitioner and only 3 remain pending, which include the present Petition.

5.1 Learned Counsel for the Petitioner further submits that in any event, and in the interest of expediency, the Petitioner be permitted to contest the Impugned Award since he was never served. It was passed *ex parte*.

6. As stated above, it is the case of the Petitioner that the Petitioner was regularly appearing in the other connected matters and that there was no



service affected on the Petitioner in this matter. It is contended that the Petitioner became aware of the matter only when he received notice of the Recovery Certificate. The Petitioner then filed an appropriate Application under Order IX Rule 13 of the CPC for setting aside the *ex parte* award. Reliance is placed on the order dated 14.03.2017 passed by the learned Labour Court in this behalf.

7. A perusal of the order dated 14.03.2017 shows that the learned Labour Court has recorded that the service has been affected on the Petitioner on 29.10.2016 and since none had appeared, the Petitioner was proceeded with *ex parte* on 14.03.2017 itself.

8. After some arguments, learned Counsel for the Petitioner submits that 50% of the awarded amount has already been deposited before this Court by the Petitioner pursuant to order dated 15.11.2019. He further submits that the Petitioner is willing to deposit 100% of the amount as awarded within six weeks with the Registry of this Court for a right to contest the proceedings before the learned Labour Court and the *ex parte* award be set aside. Reliance is placed on the judgement dated 02.06.2022 passed by a Coordinate Bench in a connected matter being W.P.(C) 8702/2019 captioned ***Kings Dorian Exports (Through Mohsin Khan, Authorized Representative) v. Mohd. Anish*** wherein similarly, the Petitioner had deposited the entire awarded amount and was permitted to contest proceedings before the learned Labour Court.

9. In view of the statement made by the learned Counsel for the Petitioner, this Court deems it apposite to allow the Application under Order IX Rule 13 of the CPC, subject to deposit of the entire awarded amount



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inclusive of up to date interest along with costs in the sum of Rs. 25,000/- with the Registry of this Court. The costs shall, however, be paid to the Respondent.

10. Subject to the deposit, the matter is remanded for de novo adjudication to the learned Labour Court. The parties shall appear before the learned Labour Court on 08.10.2025.

11. Given the lapse of time, the Petitioner shall file its Written Statement before the learned Labour Court within a period of four weeks. Rejoinder, if any, be filed within a period of two weeks thereafter. It is made clear that neither party will take any unnecessary adjournment before the learned Labour Court.

11.1 The proof of the deposit/costs paid shall be filed with the learned Labour Court.

12. The learned Labour Court is requested to dispose of the matter as expeditiously as is possible.

13. It is clarified that the amounts deposited by the Petitioner shall remain deposited and be subject to further orders.

14. The Petition is disposed of in the foregoing terms. All pending Applications also stand closed.

15. The Registry is directed to send a copy of the order passed today by speed post/registered AD to the Respondent.

16. The parties will act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

AUGUST 12, 2025/r/ha