



2025:DHC:6928



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 23.07.2025+ W.P.(C) 12943/2019

M/S KASA TECHNOLOGIES LTD

.....Petitioner

Through: Ms. Nandita Abrol, Ms. Akansha
Sharma, Advs.

versus

MR. DEVENDER SINGH

.....Respondent

Through: None.

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

1. The present Petition has been filed under Article 226 and 227 of the Constitution of India for setting aside the *ex parte* order dated 22.07.2019 passed against the Petitioner [hereinafter referred to as "Impugned Order"] passed by the learned Additional District & Sessions Judge, POLC-V, Rouse Avenue Court Complex, New Delhi.

2. The prayers in the present Petition are as set out below:

"1. Allow the present appeal;

2. Pass an order for setting aside the ex-parte award dated 22.07.2019 passed against the Petitioner's in LIR;

3. Pass an order so that the matter can be remanded back for fresh adjudication in the presence of the Petitioner's;

4. Pass any such order(s) which the Hon'ble Court may deem fit and proper."

3. None appears for the Respondent despite service. The Respondent is accordingly proceeded with *ex parte*.

4. The Impugned Order was passed in a Claim Petition being Petition No.2136/2017 captioned ***Sh. Devender Singh v. M/s Kasa Technologies***



Pvt. Ltd. The only challenge in the present Petition is to the order dated 22.07.2019 which dismisses and Application filed under Order IX Rule 13 of the CPC. The learned Trial Court has found that the Petitioner has been unable to show any ground for setting aside the Impugned Order, and thus, dismissed this Application.

5. Learned Counsel for the Petitioner submits that the Petitioner had filed an Application under Order IX Rule 13 of the Code of Civil Procedure, 1908 [hereinafter referred to as “CPC”] seeking to set aside the *ex parte* award dated 30.11.2018 [hereinafter referred to as “Application”]. The Application was dismissed by the learned Labour Court giving a finding that the Application other than stating that the date was wrongly noted by the Petitioner does not set out any ground for setting aside the *ex parte* award.

5.1 However, it is not disputed by the Petitioner that the *ex parte* award dated 30.11.2018 passed by the learned Labour Court has not been challenged by the Petitioner in these proceedings.

6. A perusal of the case file reflects that the Petitioner has not placed on record the Application filed. The Application which is available on record is an Application filed in the connected writ being W.P.(C) 3342/2019 captioned ***Kasa Technologies Ltd. v. Secretary Labour & Anr.*** However, the Trial Court Record was requisitioned by this Court.

7. The Impugned Order shows that there was no appearance on behalf of the Petitioner/Management on multiple dates. The record also reflects that during the proceedings before the learned Labour Court, the Petitioner was proceeded with *ex parte* on more than one occasion.



8. The learned Counsel for the Petitioner has averred that although the Petitioner appeared on 19.04.2018 before the learned Labour Court but due to inadvertence, the next date of hearing was noted down as of 21.01.2019 which led to the non-appearance of the Petitioner on the next date which was 21.08.2018. Thus, an *ex parte* award was passed on 30.11.2018.

9. The provisions of Order IX Rule 13 of the CPC sets out that if an *ex parte* decree is passed against the Defendant, he may apply to the Court for such decree to be set aside and if he satisfies the Court that the summons were not duly served or he was prevented by sufficient cause from appearing, the Court may set aside the decree on such terms as it deems appropriate. The Application as filed by the Petitioner, however, does not set out any ground or show sufficient cause for exercise of that discretion. It is apposite to set out Order IX Rule 13 of the CPC which is reproduced hereinbelow:

“13. Setting aside decree ex parte against defendant.

In any case in which a decree is passed ex parte against a defendant, he may apply to the Court by which the decree was passed for an order to set it aside; and if he satisfies the Court that the summons was not duly served, or that he was prevented by any sufficient cause from appearing when the suit was called on for hearing, the Court shall make an order setting aside the decree as against him upon such terms as to costs, payment into Court or otherwise as it thinks fit, and shall appoint a day for proceeding with the suit;”

Provided that where the decree is of such a nature that it cannot be set aside as against such defendant only it may be set aside as against all or any of the other defendants also:

Provided further than no Court shall set aside a decree passed ex parte merely on the ground that there has been an irregularity in the service of summons, if it is satisfied that the defendant had notice of the date of hearing and had sufficient time to appear and answer the plaintiff's claim.

[Explanation.—Where there has been an appeal against a decree passed ex



parte under this rule, and the appeal has been disposed of on any ground other than the ground that the appellant has withdrawn the appeal, no application shall lie under this rule for setting aside that ex parte decree.]”

10. Order IX Rule 13 of the CPC provides that an ex-parte decree may be set aside if the defendant satisfies the Court that summons were not duly served, or if he was prevented by sufficient cause from appearing when the matter was called for hearing. The Court, upon such satisfaction, shall make an order setting aside the decree and on such terms that it deems fit and fix a date for further proceedings. The Court upon such satisfaction shall make an order setting aside the decree and on such terms that it deems fit and fix a date for further proceedings.

11. The Impugned Order reflects that the Petitioner has not been able to show any ground for setting aside the *ex parte* award dated 30.11.2018. The learned Labour Court has held that no document has been placed on record by the Petitioner management in support of its contentions. It is apposite to set out the relevant extract from the order dated 22.07.2019 below:

“As per the applicant / management though they did put up appearance on 19.04.2018 but due to inadvertence next date of hearing was noted down as of 21.01.2019 instead of correct date as of 21.08-2018 leading to the non appearance on behalf of the management on the subsequent dates and passing of the impugned order and award dated 30.11.2018.

The court has given considerable thought to the averments made out by the applicant/management w.r.t. the stand taken in the application.

Along with the application no copy of the diary of the AR has been filed which can infact prove the averment made out by the applicant in this respect and accordingly, in the absence of the same the court has got no reason to believe the version w.r.t. noting the wrong date by the AR for the management.

*Hence, finding no merit in the application, **the application stands dismissed.**”*

[Emphasis supplied]



11.1 Thus, the Impugned Order dismissed the Application with a finding that no document has been filed in support of the contention of the learned Counsel for the Petitioner that the date was wrongly noted and thus, has dismissed the Application under Order IX Rule 13 of the CPC.

12. The Supreme Court in *Parimal v. Veena*¹ has held that “sufficient cause” must be such so as to exclude negligence, lack of bona fides or inaction, which must be examined from the viewpoint of a cautious prudent person. It was further held that the test is whether the defendant honestly and sincerely intended to remain present, did his best to do so, and approached the Court with a reasonable defence, each case being decided on its own facts. It further held that the technicalities of the law should not prevent the Court from doing substantial justice. The relevant extract is below:

“13. “Sufficient cause” is an expression which has been used in a large number of statutes. The meaning of the word “sufficient” is “adequate” or “enough”, inasmuch as may be necessary to answer the purpose intended. Therefore, word “sufficient” embraces no more than that which provides a platitude which when the act done suffices to accomplish the purpose intended in the facts and circumstances existing in a case and duly examined from the viewpoint of a reasonable standard of a cautious man. In this context, “sufficient cause” means that the party had not acted in a negligent manner or there was a want of bona fide on its part in view of the facts and circumstances of a case or the party cannot be alleged to have been “not acting diligently” or “remaining inactive”. However, the facts and circumstances of each case must afford sufficient ground to enable the court concerned to exercise discretion for the reason that whenever the court exercises discretion, it has to be exercised judiciously. (Vide Ramial v. Rewa Coalfields Ltd. [AIR 1962 SC 361], Lonand Grampanchayat v. Ramgiri Gosavi [AIR 1968 SC 222], Surinder Singh Sibia v. Vijay Kumar Sood [(1992) 1 SCC 70] and Oriental Aroma Chemical Industries Ltd. v. Gujarat Industrial Development Corpn. [(2010) 5 SCC 459].)

¹ (2011) 3 SCC 545



14. In *Arjun Singh v. Mohindra Kumar* [AIR 1964 SC 993] this Court observed that every good cause is a sufficient cause and must offer an explanation for non-appearance. **The only difference between a “good cause” and “sufficient cause” is that the requirement of a good cause is complied with on a lesser degree of proof than that of a “sufficient cause”.** (See also *Brij Indar Singh v. Kanshi Ram* [(1916-17) 44 IA 218: AIR 1917 PC 156] *Manindra Land and Building Corpn. Ltd. v. Bhutnath Banerjee* [AIR 1964 SC 1336] and *Mata Din v. A. Narayanan* [(1969) 2 SCC 770: AIR 1970 SC 1953].)

15. While deciding whether there is sufficient cause or not, the court must bear in mind the object of doing substantial justice to all the parties concerned and that the technicalities of the **law should not prevent the court from doing substantial justice and doing away the illegality perpetuated** on the basis of the judgment impugned before it. (Vide *State of Bihar v. Kameshwar Prasad Singh* [(2000) 9 SCC 94], *Madanlal v. Shyamlal* [(2002) 1 SCC 535], *Davinder Pal Sehgal v. Partap Steel Rolling Mills (P) Ltd.* [(2002) 3 SCC 156], *Ram Nath Sao v. Gobardhan Sao* [(2002) 3 SCC 195], *Kaushalya Devi v. Prem Chand* [(2005) 10 SCC 127], *Srei International Finance Ltd. v. Fairgrowth Financial Services Ltd.* [(2005) 13 SCC 95] and *Reena Sadh v. Aniana Enterprises* [(2008) 12 SCC 589].)

16. In order to determine the application under Order 9 Rule 13 CPC, the test that has to be applied is whether the defendant honestly and sincerely intended to remain present when the suit was called on for hearing and did his best to do so. **Sufficient cause is thus the cause for which the defendant could not be blamed for his absence. Therefore, the applicant must approach the court with a reasonable defence. Sufficient cause is a question of fact and the court has to exercise its discretion in the varied and special circumstances in the case at hand.** There cannot be a straitjacket formula of universal application.”

[Emphasis Supplied]

13. A Division Bench of this Court in *Sudarshan Sareen v. National Small Industries Corpn. Ltd.*² has held that the absence of a plausible explanation for non-appearance cannot constitute “sufficient cause,” and in such circumstances the application is not maintainable. It was held that the appellant’s conduct in not bothering to ascertain the status of the case reflected clear indifference towards pursuing the matter which the

² 2013 SCC OnLine Del 4412



application under Order IX Rule 13 CPC being dismissed. It is apposite to set out the relevant extract of the above-mentioned judgement as below:

*14. Following the aforesaid decisions, we do not feel that the appellant has been able to show sufficient cause for not appearing in the proceeding. **In the present case, the appellant has admitted the service of summons. Admittedly, the appellant was aware of the pendency of the suit** and had sufficient time to appear and answer the claim of respondent no. 1. **The only reason given by appellant for not appearing in court is the alleged assurance given by respondent no. 2 that** the appellant would be duly represented in the matter. **We find that this reason cannot by any stretch constitute a sufficient cause for non-appearance of the appellant.** Admittedly, despite being aware of the proceedings, the appellant neither took any pains to ensure that he was represented before the court nor did he take any efforts to even apprise himself as to the outcome of the proceedings. The appellant has been wilfully negligent and thus, the recourse under Order IX Rule 13 of CPC is not available to the appellant.”*

[Emphasis Supplied]

13.1 It was further held by the Division Bench of this Court that relying on the judgment of the Supreme Court in the ***Parimal*** case that the Defendant must be able to show that he honestly did his best to remain present for the hearing and could not be blamed for the absence. The Applicant must approach the Court with a reasonable defence. The relevant extract of the ***Parimal*** case is set out below:

“xxx

xxx

xxx

*15. While deciding whether there is sufficient cause or not, the court must bear in mind the object of doing substantial justice to all the parties concerned and that the technicalities of the law should not prevent the court from doing substantial justice and doing away the illegality perpetuated on the basis of the judgment impugned before it. (Vide *State of Bihar v. Kameshwar Prasad Singh*, *Madanlal v. Shyamlal*, *Davinder Pal Sehgal v. Partap Steel Rolling Mills (P) Ltd.*, *Ram Nath Sao v. Gobardhan Sao*, *Kaushalya Devi v. Prem Chand*, *Srei International Finance Ltd. v. Fairgrowth Financial Services Ltd.* and *Reena Sadh v. Anjana Enterprises*.)*

*16. In order to determine the application under Order 9 Rule 13 CPC, the test that has to be applied is whether **the defendant honestly and sincerely intended to remain present when the suit was called on for hearing and did his best to do so. Sufficient cause is thus the cause for which the***



defendant could not be blamed for his absence. Therefore, the applicant must approach the court with a reasonable defence. *Sufficient cause is a question of fact and the court has to exercise its discretion in the varied A and special circumstances in the case at hand. There cannot be a straitjacket formula of universal application.*”

[Emphasis supplied]

14 Thus, the principles which can be called out are that the term “sufficient cause would mean that:

- (i) The party had not acted in a negligent manner;
- (ii) The party had acted bonafidely but could not appear in the Court due to facts and circumstances beyond its control; and
- (iii) The party had not been acting diligently in pursuing the legal remedy available to it; and
- (iv) The party must approach the Court with a defence that is sincere and reasonable.

15. However, the Petitioner has been unable to show any document or make any averment to show “sufficient cause”. The Application other than stating that the date was wrongly noted does not set out any reason. The position before this Court is no different. No document in support of its contention have been place on record.

15.1 Learned Counsel for the Petitioner only reiterates what was stated before the learned Labour Court that the date was wrongly recorded. In addition, it is contended that the services of the Respondent were not terminated but that he abandoned the services.

16. Concededly thus, the conduct of the Petitioner in the present case does not show that the Petitioner could not be blamed for his own absence. The Petitioner although appeared before the learned Labour Court on



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19.04.2018 but stated that the hearing date they noted was the date of January, 2019, which is the date more than nine months away. The record before this Court and before the learned Labour Court reflects that the Petitioner did not act in a diligent manner and been remiss of the proceedings before the learned Labour Court. The Petitioner has failed to substantiate his reasons for non-appearance either before the learned Labour Court or before this Court. The Petitioner also failed to file its written statement nor appeared before the Court and thus, was proceeded with ex parte by the learned Labour Court on 21.08.2018 and thereafter, basis the ex parte evidence led, the Claim Petition of the Petitioner was decided.

17. Thus, in the absence of any cogent reasons/document(s) in support of its contention, it cannot be said that sufficient cause for the non-appearance by the Petitioner has been shown.

18. There is another aspect in the matter as well. A review of the Petition reflects that although the challenge before this Court is in respect of an *ex parte* order dated 22.07.2019 passed by the learned Labour Court in ID No.2136/2017 captioned ***Sh. Devender Singh v. M/s Kasa Technologies Pvt. Ltd.***, the entire Petition comprises of averments with respect to a complaint made by the Respondent before the Authority under the Minimum Wages Act, 1948. It is apposite to set out the paragraphs 24 to 29 of the Petition, below:

“24. That having being aggrieved by the order dated 22.06.2018 passed by Sh. S.C. Yadav, Authority under Minimum Wages Act, 1948 and further by the refusal of the registry to accept the application under 151 CPC for setting aside the order, the petitioner has moved a civil writ petition no. W.P.(C) 3342/2019 in the Hon'ble High Court in which the Hon'ble High Court was



pleased enough to grant a stay in the operation of the award till the next date of hearing i.e on 18.10.2019. The copy of the order dated 22.4.2019 is annexed as ANNEXURE 13.

25. That the Respondent is au courant of the actual facts and circumstances and especially the fact that the Respondent had taken the entire amount from his Provident Fund and the Petitioner's Company owes nothing else to Respondent except the remaining amount collected in 5 months before the respondent disappeared. Under EPF scheme, an employee has to pay a certain contribution towards the scheme and an equal contribution is paid by the employer. The employee gets a lump sum amount including self and employer's contribution with interest on both, on retirement or on resignation.

26. That the Respondent left the services on his own in the month of February 2016 without intimating the Petitioner's Company of the same and even then the respondent has indulged in vexatious litigations based on half information and limited truth that may/and has, for long, benefited the respondent.

27. That the Respondent did not approach the Labour Authority with correct facts and circumstances instead opted for the standard practice of harassing the Management and extracting money which the Respondent is legally not entitled to.

28. That the order dated 22.06.2018 passed by Sh. S.C. Yadav, Authority under minimum wages act, 1948 is not only passed on inaccurate, invalid and impaired facts and circumstances but the order in itself is a clearcut case of vacuous and ignorant "cut-copy-paste" strategy.

29. That after following the due process of law, the Respondent herein ceased to be the Employee of the Petitioner's Company."

18.1 In addition, although in paragraphs 30 to 34 of the Petition, averments have been made with regard to the wrong noting of dates by the Petitioner, the only contention of the Petitioner here is that the date was wrongly noted, no other averment or document is placed on record in support of this contention. In fact, it is stated in the Petition that the documents in support of the contentions were not placed on record before the learned Labour Court, since the learned Labour Court had not asked for the same. The relevant paragraphs of the Petition are set out below:

"34. That an application was moved on behalf of the Petitioner's Company under Order 9 Rule 13 to set aside the ex-parte Award dated 30.11.2018



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passed against the Petitioner's Company in LIR/2136/2017 and remand back the matter for fresh adjudication in the presence of the Petitioner's and the same was dismissed on 22.07.2019 by the Ld Court of Sh. Vinay Singhal, ADJ, POLC-V on the grounds that along with the Application, no copy of diary of the AR had been filed to prove the averment wherein this point was never been raised by the court to the Petitioner's or the counsel of the Petitioner's. The copy of the order dated 22.07.2019 is annexed as ANNEXURE.

35. That it is important to mention here that the Ld ADJ never asked the AR of the Petitioner's Company to produce any copy of diary also. Had it been asked, the counsel would have surely produced the requisite document.

[Emphasis Supplied]

19. The Petitioner in the present case has shown gross negligence and apathy by remaining absent on multiple dates despite due service, taking only the plea of wrongly noting the hearing date, which in the facts of the present case, is not “sufficient cause” under Order IX Rule 13 CPC. The Petition as filed contains several irrelevant averments unrelated to the Impugned Order reflecting clear indifference and lack of bona fides.

20. In any event and as stated above, the ex parte award dated 30.11.2018 that was passed by the learned Labour Court has not been challenged by the Petitioner till today.

21. Accordingly, no ground for interference with the Impugned Order has been made out.

22. The Petition is accordingly dismissed.

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

TARA VITASTA GANJU, J

JULY 23, 2025/r