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

+ **CM(M) 4138/2024 & CM APPL. 75105/2024 (Stay)**

GEETANJALI KALRA & ORS.Petitioners

Through: **Mr. Manikant Singhal and Ms.
Meenakshi Agarwal, Advs.**

versus

RAKESH MOHAN GULATI & ANR.Respondents

Through: **Mr. Gaurav, Adv.**

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

22.01.2025

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1. This is a petition under Article 227 of the Constitution of India for setting aside the order of cost imposed by the learned Trial Court vide order dated 14.11.2024 in CS DJ. 578/2021 titled as Rakesh Mohan Gulati and Anr. vs. Geetanjali Kalra and Ors.

2. Learned counsel submits that there was absolutely no delay on the part of the present petitioner and in fact the petitioner had been appearing regularly before the learned Trial Court and had filed an application under Order IX Rule 7 CPC for setting aside the ex-parte order.

3. It is further submitted that unmindful of the fact that there was no delay, the trial Court still imposed cost of Rs. 20,000/- upon petitioner no.1 and Rs. 5000/- on each of the other petitioners.

4. Per contra, the learned counsel for the respondent submits that there is no illegality in the orders passed by the learned Trial Court and further submits that despite the grand of 30 days of time, the petitioner have till date not filed the written statement.



6. The perusal of the Trial Court records reveals that the petitioners, who are the defendants were served on 25.10.2021, but they did not appear to contest the case and were therefore proceeded *ex-parte* vide order dated 22.11.2021.

7. Petitioners filed an application under Section 151 CPC for setting aside the *ex-parte* order on 31.01.2022. The said application came to be decided vide order dated 14.11.2024, whereby the learned Trial Court set aside the *ex-parte* order, subject to payment of cost of Rs. 20,000/- by petitioner no. 1 and Rs. 5000/- each as cost by the remaining petitioners.

8. The challenge to the order is only on the ground of imposition of cost. The Court finds no illegality or infirmity in the orders passed in as much as the cost has been imposed for compensating the respondent on the ground of delay caused.

9. The High Court exercising supervisory jurisdiction does not act as a court of first appeal. Supervisory jurisdiction is not to correct every error of fact or even a legal flaw when the final finding is justified or can be supported. The High Court is not to substitute its own decision on facts and conclusions, for that of the subordinate court or tribunal. This power is to be exercised only to set right grave dereliction of duty or flagrant abuse, violation of fundamental principles of law or justice.

10. Court finds no compelling reasons to interfere in the impugned order passed by the trial court.

10. The petition is therefore dismissed.

RAVINDER DUDEJA, J

JANUARY 22, 2025/tp