



\$~40

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

%

Date of decision: 07.01.2025

+ CM(M) 3/2025

M/S K. K. SPUN INDIA PVT LIMITED & ANR.Petitioners

versus

M/S REGAL ENTERPRISESRespondent

Advocates who appeared in this case:

For the Petitioner: Mr. Raj Shekhar Rao, Sr. Adv. with Mr. Ajay Paul, Advocate.

For the Respondents: Mr. Sarvesh Singh and Ms. Rajeshwari Mitra, Advs.

CORAM:-

HON'BLE MR. JUSTICE RAVINDER DUDEJA

JUDGMENT (ORAL)

CM APPL. 62/2025(Exemption)

Allowed, subject to all just exceptions.

Application stands disposed of.

CM(M) 3/2025

1. Present petition has been filed under Article 227 of the Constitution of India for setting aside the impugned order dated 14.11.2024, passed by the court of learned District Judge (Commercial)-02, Central District, Tis Hazari in case titled "Regal Enterprises Vs. K.K. Spun India Ltd. & Ors." CS (Comm.) No. 1400/2023.



2. Plaintiff filed a Suit for Recovery of Rs. 1,99,95,133/- on 26.10.2023 against four defendants including the petitioners herein. Issues were framed on 06.08.2024 and Schedule of Case Management Hearing was fixed and Sh. T.S. Kashyap, Retired District & Sessions Judge was appointed as Court Commissioner to record the evidence of both the parties. As per Schedule fixed, plaintiff's evidence was to be recorded during the period between 01.09.2024 to 13.09.2024 and evidence of the defendants No. 1 & 2 (petitioners herein) was to be recorded between 16.09.2024 to 27.09.2024.

3. Subsequently, on 07.10.2024, Schedule of Case Management Hearing was again modified and the Court Commissioner was requested to record evidence of the plaintiff and defendants from 16.10.2024 to 29.10.2024.

4. Vide order dated 29.10.2024, the Court Commissioner recorded that three opportunities have already been given to the defendants to adduce evidence on their behalf on 22.10.2024, 26.10.2024 and 29.10.2024 but they have failed to examine the witnesses despite the dates having been granted as per their convenience. The Court Commissioner observed that there was no justification to grant further adjournments for recording of evidence on behalf of the defendants, and therefore, the evidence of defendants No. 1 & 2 was closed.

5. Order 15-A CPC provides that in commercial matters, the Court can fix the Schedule of Case Management Hearing for expeditious disposal of the cases. In terms of Rule 8 of Order 15-A CPC, the Court is empowered to either condone the non-compliance by payment of



cost or to foreclose the non-compliant parties right to file affidavit, conduct cross-examination of witnesses, file written submissions, address oral arguments or make further arguments in the trial, as the case may be.

6. Vide impugned order dated 14.11.2024, trial court concluded that defendants were not interested in contesting the case and were delaying the matter on one pretext or the other and dismissed the application filed under Order 15-A Rule 6 CPC.

7. Mr. Rao, learned Senior Counsel, appearing for the petitioner, has argued that the trial court has erred by closing the evidence of the petitioners within the time-frame granted by the Statute i.e. six months from the date of First Case Management Hearing i.e. 06.08.2024. It is submitted that the time for completion of trial was available till 06.02.2025 and there is no reason why the evidence of the petitioners could not have been recorded during the intervening period.

8. Learned Senior Counsel has submitted that the trial court completely ignored that the Court Commissioner had granted ample time to the plaintiff for examination of its witnesses as per their availability and convenience, inasmuch as, the Court Commissioner granted nine days time to the plaintiff to produce his witness due to his unavailability but ignored that petitioner's witness was struck up in Lucknow. It is submitted that the air-tickets of the witness were shared in WhatsApp group created by the Court Commissioner but the Court Commissioner and the Court ignored that the witness was genuinely not available in Delhi for cross-examination. It is thus submitted that



adjournments sought were on account of justifiable reasons and therefore the impugned order is liable to be set aside.

9. Learned counsel appearing for the respondent, however, vehemently opposed the petition, arguing that defendants had taken repeated adjournments for their evidence, and therefore, the trial court has rightly closed the evidence of the defendants.

10. No doubt, the Commercial Court Act has been enacted with a view to provide speedier resolution of high value commercial disputes and for such purpose, certain amendments have been introduced in the Civil Procedure Code, one of them being Case Managing Hearing under Order 15-A CPC. Rule 3 of Order 15-A CPC provides that in fixing the dates or setting time limits for the purposes of Rule 2, the Court shall ensure that the arguments are closed not later than six months from the date of the First Case Management Hearing.

11. The First Case Managing Hearing in this case was 06.08.2024, and therefore, the arguments in terms of Rule 3 are to be concluded by the trial court on or before 05.02.2025. The Court has ample power under Rule 8 to condone non-compliance by payment of cost. The Court appreciates the concern of the trial court to expedite the disposal of the case in true spirit of Commercial Courts Act. At the same time, the trial court should have ensured that *lis* between the parties is decided on merits rather than technicalities. The trial court should have adopted a pragmatic and justice oriented approach by granting another opportunity to the petitioner to lead its evidence.



12. Petition is accordingly allowed and the impugned order dated 14.11.2024 is set aside with directions to the trial court to fix fresh dates for recording of evidence of the petitioners but the said dates be fixed in such a manner that the entire evidence of the defendant is completed within next 15 days. However, this order is subject to the condition that petitioners shall not seek any adjournment on any ground whatsoever and shall complete their evidence within the stipulated period.

RAVINDER DUDEJA, J.

JANUARY 7, 2025

RM



सत्यमेव जयते