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

+ CM(M) 646/2022 & CM No. 30092/2022, CM No.30093/2022

VISHVJEET KANWARPARL & ANR. .... Petitioners

Through: Mr.Divij Soni, Adv.

versus

DILJEET TITUS ..... Respondent

Through: None

**CORAM:**

**HON'BLE MR. JUSTICE C.HARI SHANKAR**

**J U D G M E N T(O R A L)**

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**11.07.2022**

1. The order, dated 18<sup>th</sup> January 2022, under challenge in the present petition preferred under Article 227 of the Constitution of India, assails the imposition of costs of ₹ 50,000/-, by the learned Additional District Judge (“the learned ADJ”).

2. The learned ADJ has imposed costs as aforesaid as a condition for allowing an application filed by the petitioner under Order VIII Rule 1 of the Code of Civil Procedure, 1908 (CPC). By the said application, the petitioner sought condonation of the delay occasioned in filing written statement, in response to the plaint of the respondent.

3. The learned ADJ has observed that summons in the suit were issued to the petitioner *vide* order dated 13<sup>th</sup> September 2019, whereafter, though the petitioner entered appearance on 4<sup>th</sup> December 2019, no written statement was filed by the petitioner by the next date,

which was 23<sup>rd</sup> March 2020. The written statement came to be filed only on 26<sup>th</sup> November 2020, nearly a year after the defendant had entered appearance.

4. In these circumstances, the learned ADJ has deemed it appropriate to allow the application to take the written statement on record subject to costs of ₹ 50,000/-.

5. Admittedly, the amount in dispute is in the region of around ₹ 45 lakhs. It cannot be said, therefore, that costs of ₹ 50,000/- were exorbitant or unconscionable in any manner.

6. Learned Counsel for the petitioner also sought to rely on the order of the Supreme Court in *Suo Motu Writ Petition (C) No. 3 of 2020 In Re: Cognizance for Extension of Limitation*. The reliance, in my view, is clearly misplaced. The benefit of the order passed by the Supreme Court enures in favour of the parties with respect to whom the normal period of limitation, within which proceedings were to be filed before judicial for a, expired on or after 15<sup>th</sup> March 2020. In its judgment in *Sagufa Ahmed v. Upper Assam Plywood Products*<sup>1</sup>, the Supreme Court has clearly held that the benefit of the order would not apply where the normal period expired prior to 15<sup>th</sup> March 2020 and the extended period available, were delay to be condoned, expired thereafter.

7. Admittedly, the normal period for filing the written statement in

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<sup>1</sup> (2021) 2 SCC 317

the present case expired in December, 2019. No capital, therefore, can be earned by the petitioner on the basis of the judgment of the Supreme Court in *Suo Motu Writ Petition (C) No. 3 of 2020 In Re: Cognizance for Extension of Limitation*.

8. While exercising jurisdiction under Article 227 of the Constitution of India, this Court is ordinarily required to forebear from interfering with discretionary orders passed by the court below. The impugned order has not been passed in excess of authority. The quantum of costs to be deposited is purely a matter of discretion. No case for interference with the discretion exercised by the learned ADJ in that regard in the present case can be said to have been made out.

9. The petition is accordingly dismissed *in limine*.

**C.HARI SHANKAR, J**

**JULY 11, 2022/kr**

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