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

+ CM(M) 1061/2022 & CM APPL. 43600/2022

SH. PAWAN KUMAR KAKARIA Petitioner

Through: Mr. Harish Katyal, Adv.

versus

ANIL KUMAR RAI & ANR Respondents

Through: Mr. Praveen Suri, Adv.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

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

07.10.2022

1. The order dated 27th August 2022, passed by the learned Additional District Judge (“the learned ADJ”) in CS 898/2022 (***Pawan Kumar Kakaria v. Anil Kumar Rai***), under challenge in the present petition under Article 227 of the Constitution of India, reads thus:

“27.08.2022

Present: Sh. Harish Katyal Ld counsel for plaintiff.

Heard. Perused.

Plaintiff has relied upon certain documents which is purported - to be entries regarding receiving of payment by defendant in the diary being maintained by the defendant No. I only. The plaintiff has not given any notice under Order XII Rule 8 CPC to defendant No. 1 before filing of the suit. Further, there is no other acknowledgment of the defendant which is in the possession of plaintiff.

When the Court raised a query to the Ld counsel about the authenticity of these documents and as to why notice be issued to defendant when there is only photocopy of documents, the original of which are not available with the plaintiff and further about the limitation also the Ld counsel submits that he is 'shocked and surprised' to hear this.

In my considered opinion, the use of such words does not behove to an advocate and an advocate is supposed to answer the query raised by the Court.

Ld counsel is directed to satisfy the Court on its queries. Timesought for same. Heard. Allowed.

Put up on 21.09.2022 for consideration.”

2. The prayer clause in this petition reads thus:

“The Petitioner named above in view of the submissions made herein above most respectfully prayed before this Hon'ble court that this Hon'ble Court may be pleased to pass the following directions/Orders:

a) To pass such order setting aside the impugned order dated 27.08.2022 and/or expunge the remarks made therein, in CS DJ No. 898 of 2022, Titled Pawan Kumar Kakaria Vs. Sh. Anil Rai & Anr. pending in the court of Sh. Hemraj A.D.J. Central Tis Hazari Courts and issue summon to the Defendant/ respondent for the suit;

b) To pass such order allowed the Application of the petitioner and direct the Id. Trial Court to take the Mended Written Statement on record and proceed the Case further:

c) To pass such other Order(s) as this Hon'ble Court may deem just and proper in the facts and circumstances of the instant case.”

3. A reading of the impugned order reveals that the present petition is essentially premature. The impugned order merely seeks a response, from the Counsel for the petitioner, to certain queries posed by the Court. There is no question of this Court interfering at this stage of the proceedings, under Article 227 of the Constitution of India. It would be for learned Counsel to satisfy the learned ADJ regarding the queries raised by him.

4. However, the Court notes that the learned ADJ has entered certain adverse comments about the language used by the Counsel for the petitioner/plaintiff during arguments.

5. Learned Counsel for the petitioner expresses his sincere and unconditional apology for not having addressed the Court in an inappropriate fashion and undertakes that such an occurrence would not recur.

6. Counsel are, on all occasions, expected to address the Court with deference and respect. Mutual respect between Bench and Bar is the indispensable *sine qua non* for a vibrant and vigorous legal system to function. It cannot be said, therefore, that, in expressing “shock and surprise” at the query posed by the learned ADJ, the learned Counsel conformed to the most appropriate standards of legal discourse. The apology tendered at the Bar is, therefore, accepted.

7. That said, however, I am of the opinion that the language used by the learned Counsel was not so objectionable as to have invited

adverse remarks against the Counsel.

8. Adverse remark against Counsel, in a judicial order, has serious and far-reaching consequences. Courts should abjure from entering such remarks or exhibiting needless sensitivity about utterances by Counsel in Court. Often, in the heat of arguments, the language used by Counsel may not be most circumspect. The Court is expected to be alive and sensitive to this fact. A brotherly word of advice, across the Bar, is often all that is required on such occasions.

9. The adverse comment against Counsel, as contained in the impugned order dated 27th August 2022, accordingly stands expunged.

10. This petition is disposed of *in limine* in the aforesaid terms.

OCTOBER 7, 2022
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C.HARI SHANKAR, J

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