
(2011) 10 DEL CK 0168

In the Delhi High Court

Case No : CM (M) No. 1234 of 2011 and CM No. 19495 of 2011

Kew Precisions Parts Pvt. Ltd.

APPELLANT

Vs

Swaroop Lal Adlakha

RESPONDENT

Date of Decision : 21-10-2011

Acts Referred:

Citation : (2011) 10 DEL CK 0168

Hon'ble Judges : Indermeet Kaur, J

Bench : Single Bench

Advocate : Rakesh Tikku and Mr. Vivek Ojha, for the Appellant; None, for the Respondent

Final Decision : Dismissed

Judgement

Indermeet Kaur, J.

CM No. 19496/2011(exemption) in CM(M) No. 1234/2011

CM No. 19524/2011(exemption) in CM(M) No. 1236/2011

1. Exemption allowed subject to just exceptions.

CM No. 19496/2011(exemption) in CM(M) No. 1234/2011

CM No. 19524/2011(exemption) in CM(M) No. 1236/2011

2. The order impugned before this Court is the order dated 16.07.2011 vide which the application filed by the defendant seeking a waiver of cost had been dismissed; on the same date evidence of the defendant also stood closed. Court had recorded that 20 adjournments for the purpose of defendant evidence had already been granted to the defendant to produce his witness; even on the date when the impugned order was passed no witness of the defendant was present. Petitioner is aggrieved by the said order; it is an admitted position that plaintiff evidence was closed on 26.07.2010; the witness of the defendant who had to come into the witness box had died in the intervening period. Court was also on

leave on 23.02.2011; on 28.04.2011 last opportunity had been granted to the defendant to lead his evidence; the defendant himself also very keen to lead his evidence and he had moved an application seeking pre-ponement of the date. Contention is that there is only witness who is to examine on behalf of the defendant; a valuable right would be lost to the defendant in case he is not permitted to lead his evidence; affidavit of the said witness is in fact already on record. In view of the submissions made which are borne out from the record, in the interest of justice, impugned order is set aside; one last opportunity is granted to the defendant to produce his witness in defence; it is made clear that no further adjournment shall be granted for the said purpose. The next date fixed before the Trial Court is in 28.11.2011. The counsel for the petitioner undertakes to inform the plaintiff about the case in order that the counsel for the plaintiff is ready for the examination of the witness of the defendant on the said date; Trial Court shall ensure that no unnecessary adjournment shall be granted for the said purpose. Defendant evidence shall be concluded on the date already fixed before the Trial Court. This order is passed subject to payment of Rs.5,000 as cost.

3. Petition is disposed of.
4. Copy of the order be give dasti to the counsel for the petitioner.
5. Copy of the order also be sent to the Trial Court for necessary intimation.