
(2004) 01 DEL CK 0031

In the Delhi High Court

Case No : CRP 34 of 2004 and CM 543 and 544 of 2004

Punjab National Bank

APPELLANT

Vs

Shri V.P. Mehra

RESPONDENT

Date of Decision : 16-01-2004

Acts Referred:

Citation : AIR 2004 Delhi 135 : (2004) 109 DLT 546 : (2004) 72 DRJ 594

Hon'ble Judges : Vikramajit Sen, J

Bench : Single Bench

Advocate : S.K. Pruthi, for the Appellant;

Final Decision : Dismissed

Judgement

Vikramajit Sen, J.—This Petition u/s 115 of the CPC has been filed against the Orders dated 4.11.2003 and 3.1.2004 passed in a Suit for Possession, damages/ mense profit and injunction. On 4.11.2003 as no witness on behalf of the Defendant was present. The bailable warrants of Vijay Narain Seth had not been served despite several opportunities as well as a last opportunity. Since all these indulgences had not been availed of, the Defendant's evidence was closed and the case was fixed for arguments. Thereafter, a Review application was filed under Order 47 Rule 1 read with Section 151 of the CPC which was also dismissed by Orders dated 3.1.2004. The Suit has been pending for over one decade.

2. Even previously the Defendant's evidence had been closed but on its having preferred a Revision, this Court had passed the following Orders on 14.1.2004:

""1)-That the trial court shall fix a date preferably within four weeks from today for examination of the witness of the petitioner; 2) that the petitioner shall take steps within 7 days and will get the summons served on the official of M/s.Jagat Talkies and Distributors within 15 days from today; 3) the petitioner shall summon the witness and close the evidence on the date fixed by the trial court as aforesaid 4) that the petitioner shall pay Rs. 2000/- as cost to the respondent

before the statement of the witness is recorded; 5) the petitioner shall not be granted any further opportunity to summon the witness in case he fails to get the summons served on the witness; that no further adjournment will be granted for the reason that the counsel or the packer of the bank is not present on the date of examination of the witness.'"

3. Thereafter as has been noted in the impugned Order dated 3.1.2004, the Defendant has availed of a number of opportunity on 2.1.2003, 7.2.2003, 20.2.2003, 12.3.2003, 27.3.2003, 24.4.2003, 8.5.2003 and 28.10.2003.

4. So far as the Review Petition is concerned, the Trial Court had rightly observed that the prayer does not satisfy the essential ingredients under Order 47 Rule 1 of the Code of Civil Procedure. It was not the case of the Defendant that new and important matters or evidence had been discovered; or that a mistake or error apparent on the face of the record was evident. Counsel for the Defendant has sought to contend before me that the phrase `any sufficient reason" will take within its ambit any reason whatsoever but this argument is erroneous and misconceived. The phrase `any sufficient reason" must be construed ejusdem generis with the words preceding it. The Order dated 3.1.2004 is Therefore upheld as no jurisdictional error is contained therein.

5. So far as Order dated 4.11.2003 is concerned, from the narration of the number of adjournments granted, no jurisdictional flaw can be detected therein.

6. The Petition is without merit and is dismissed.