

(2020) 09 DEL CK 0044

In the Delhi High Court

Case No : Civil Miscellaneous (Main) No. 386 Of 2020, Civil Miscellaneous Application No. 15682 Of 2020

Trans India International Ltd.

APPELLANT

Vs

Medipol Pharmaceutical India Pvt. Ltd

RESPONDENT

Date of Decision : 09-09-2020

Acts Referred:

Code Of Civil Procedure, 1908 — Order 7 Rule 11

Citation : (2020) 09 DEL CK 0044

Hon'ble Judges : Sanjeev Sachdeva, J

Bench : Single Bench

Advocate : Sujeet Mishra, Mohit Kumar Gupta

Final Decision : Disposed Of

Judgement

Sanjeev Sachdeva, J

1. The hearing was conducted through video conferencing.
2. Petitioner has filed the subject petition making alternative prayers. Petitioner by the first prayer seeks setting aside of order dated 21.01.2020 whereby the application of the petitioner under Order VII Rule 11 CPC has been dismissed and alternatively seeks quashing of order dated 21.01.2020 whereby his application seeking recall of orders dated 10.07.2019 and 09.09.2019, proceedings ex-party and striking of the written statement, has been dismissed.
3. Learned counsel for the petitioner submits that petitioner is restricting this petition to seeking recall of order proceeding ex parte and striking of his written statement and accordingly seeks an opportunity to defend the suit on merits.
4. Learned counsel for the petitioner concedes his prayer with regard to challenge to the rejection of his application under Order VII Rule 11 CPC.
5. Learned counsel submits that since the Trial Court has held that the grounds raised by the petitioner in his application under Order VII Rule 7 CPC are mixed

questions of fact and law, he reserves his right to lead appropriate evidence on the factual matrix and then press the grounds raised by him in his application under Order VII Rule 7 CPC on merits in the Suit.

6. Learned counsel prays that one opportunity be granted to the petitioner to defend the suit on merits and agrees to compensate the respondent with costs of Rs.50,000/- including the costs of Rs.3000/-and Rs.5000/- already imposed by the Trial Court for delay in filing the written statement.

7. Learned counsel for the respondent submits that since considerable delay has already been occasioned on account of the conduct of the petitioner, he has no objection to granting one opportunity to the petitioner to defend the suit subject to terms and subject to the condition that the suit is expedited.

8. In view of the above, the orders proceeding ex parte against the petitioner and striking of the written statement of the petitioner are recalled subject to petitioner paying costs of Rs. 50,000/- to the respondent, which is inclusive of the costs of Rs. 3,000/- and Rs. 5,000/- imposed by the Trial Court.

9. The petitioner shall pay the costs before the Trial Court on 08.10.2020. The Trial Court shall take on record the written statement. Learned counsel for the respondent submits that subject to petitioner paying the costs on 08.10.2020, he shall file his replication also on the same day.

10. The Trial Court shall thereafter expedite the proceedings and endeavour to conclude the entire trial within a period of six months from 08.10.2020.

11. The petition is accordingly disposed of in the above terms.

12. Copy of the order be uploaded on the High Court website and be also forwarded to learned counsels through email by the Court Master.