

11
CS 511/22
SUPRIYA JAIN Vs. SAMEER ROHATGI

08.05.2024

Present: None for plaintiff.
Ms. Payal Budhiraja Ld. Counsel for defendants.
Be awaited.

(Pooja Jain)
Addl. District Judge-03
East/KKD Courts/Delhi
08.05.2024

At 11 a.m.

Present: Ms. Shivani Sharma Ld. Proxy Counsel for plaintiff.
Ms. Payal Budhiraja Ld. Counsel for defendants.

An application under section 151 of CPC has been filed on behalf of the plaintiff seeking waiver of cost imposed on 28.11.2023.

It is further submitted by Ld. Proxy Counsel for plaintiff that plaintiff has not received copy of written statement filed on behalf of defendant. However, perusal of last order dt. 03.04.2024 reveals that a copy of written statement alongwith an application u/o 1 Rule 10 CPC was supplied to the Ld. Proxy Counsel appeared on behalf of plaintiff. Copy of hard copy of written statement alongwith an application u/o 1

Rule 10 CPC filed on behalf of defendant again supplied to Ld. Proxy Counsel for plaintiff.

Ld. Proxy Counsel for plaintiff request for passover to address the arguments on the application u/s 151 CPC for waiver of cost.

Pass over.

(Pooja Jain)
Addl. District Judge-03
East/KKD Courts/Delhi
08.05.2024

At 12:30 p.m.

Present: Ms. Shivani Sharma Ld. Proxy Counsel for plaintiff.
Sh. Gaurav Singh Ld. Counsel for plaintiff (through VC).
Ms. Payal Budhiraja Ld. Counsel for defendants.

Arguments heard on the application u/s 151 CPC for waiver of cost which was filed today itself on behalf of plaintiff.

It is submitted in the application that on 28.11.2023, Ld. Counsel for plaintiff could not appear before the Court on first call and on his appearance at 11 am, he was informed that matter has already been adjourned for 15.12.2023 and a cost of Rs.3,000/- was imposed. It is further submitted that non appearance of plaintiff's counsel at the very first call was neither intentional nor deliberate. Hence, it is prayed that present application for waiver of cost of Rs.3,000/- be allowed in the interest of justice.

Ld. Counsel for defendant straightaway argued on the application and submitted that the application is without merit and is liable to be dismissed.

Heard. Perused & considered.

Ld. Counsel for plaintiff argues that he appeared on 28.11.2023 at 11:20 am, however, the Court took the matter in first call and imposed cost of Rs.3,000/- payable by plaintiff due to non appearance of plaintiff. It is further submitted that the Court did not accept his oral request for waiving of cost on 28.11.2023 therefore, he has filed the present application for waiving of cost.

Perusal of record reveals that the matter was adjourned for filing of reply to the leave to defend application on behalf of plaintiff, for the first time on 15.03.2023.

Subsequently, on request of plaintiff's counsel the matter was adjourned for filing of reply on 11.05.2023, 05.08.2023, 10.10.2023 (four dates of hearing wasted for filing of reply to leave to defend application). Reply to leave to defend application was filed on 06.11.2023 and matter was fixed for arguments on 28.11.2023. Perusal of order dt. 28.11.2023 reveals that none has appeared on behalf of plaintiff when the matter was called and cost of Rs.3,000/- was imposed due to non appearance of plaintiff. However, the plaintiff's counsel appeared at 11:20 a.m. On subsequent dates i.e. 15.12.2023, 04.01.2024, 11.01.2024, the plaintiff has neither paid cost, nor moved any application for waiving of cost.

On 14.02.2024, Ld. Proxy Counsel for plaintiff appeared and submitted that he will pay cost on next date of hearing. Thereafter, on 12.03.2024, Ld. Counsel for plaintiff appeared through VC and submitted that he will move an appropriate application for waiving of cost. Again

on 03.04.2024, Ld. Counsel for plaintiff submitted that he will pay Rs.3,000/- on or before next date of hearing.

In view of the above observation and considering the conduct of the plaintiff, this Court is of the opinion that application for waiver of cost deserves dismissal. Hence, application of plaintiff filed u/s 151 CPC stands disposed off as dismissed.

Put up for payment of cost of Rs.3,000/-, replication and reply to the application u/o 1 Rule 10 CPC on 09.07.2024.

(Pooja Jain)
Addl. District Judge-03
East/KKD Courts/Delhi
08.05.2024