

CS DJ 78595/16
CAPT. A.S BHARDWAJ
Vs.

BHARAT PETROLEUM CORPORATION LTD AND ORS

23.09.2023

Present: Sh. Sanjay Gupta, Ld. Counsel for plaintiff with plaintiff.
Sh. Kumar Shubham, Ld. Proxy Counsel for defendant no. 1.

Reply to the application filed on behalf of defendant no. 1 under Order 7 rule 11 CPC has been filed by plaintiff on 14.09.2023. Same is taken on record. It is stated that copy of reply has been sent to Ld. Counsel for defendant no. 1 through post.

Written arguments on behalf of defendant no. 1 has been filed by Ld. Proxy Counsel for defendant no. 1.

No witness of defendants is present for examination.

The counsel appearing for defendant no. 1 stated that he is not having application as well as case file so unable to argue the application. It is stated that the court may fix the date for arguments on the application to some other day when the main counsel will appear to argue the application.

Ld. Counsel for plaintiff stated that defendant no. 1 is deliberately trying to delay the trial and the application is filed during the trial.

Ld. Counsel appearing for defendant no. 1 stated that the application under Order 7 rule 11 CPC may be filed in any stage.

No doubt the application under Order 7 rule 11 CPC

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may be filed by defendant at any stage but it must be prosecuted diligently. The issues in the matter were settled by Hon'ble High Court of Delhi on 05.08.2014 where matter was pending and thereafter plaintiff has completed his evidence on 29.01.2020 and since then matter is pending for defendant's evidence. No witness has been examined by the defendants till date. The application was filed on 12.10.2022 and was fixed for 19.12.2022 for its reply and arguments. On that day, Ld. Presiding Officer was not holding court and on 06.04.2023 lawyers were abstaining from work and on 03.08.2023 matter was adjourned for today at the request of Ld. Proxy Counsel for defendant as main counsel was stated to be suffering from viral fever. No ground is disclosed for adjournment of the matter. The submissions made by the counsel for plaintiff that defendant is trying to delay the trial are found having force. The application of defendant no. 1 under Order 7 rule 11 CPC is liable to be dismissed for want of appearance of authorized counsel / AR for arguments and evidence of defendant is liable to be closed but considering the nature of the suit and that defendant no. 1 is public sector undertaking, a liberal approach is taken and an opportunity is granted to defendant no. 1 to argue the application, however plaintiff be compensated with a cost of Rs. 25000/- by defendant no. 1.

Put up on **08.11.2023** for arguments on application of defendant no. 1 under Order 7 rule 11 CPC.

(SUNIL CHAUDHARY)
ADJ-04/North-West
RHC/Delhi 23.09.2023