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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

*Date of decision: 29<sup>th</sup> January, 2021*

+ **CM (M) 38/2021 & CM APPLs. 1832-33/2021**

INDUS TOWER LTD & ORS. .... Petitioners

Through: Mr. Sanjeev Bindal, Advocate.  
(M: 9810801651)

versus

HARISH YADAV & ORS. .... Respondents

Through: Mr. Mukesh Sharma, Adv. for R-1.  
Mr. Murari Kumar, Adv. for R-6.

**CORAM:**

**JUSTICE PRATHIBA M. SINGH**

**Prathiba M. Singh, J.(Oral)**

1. This hearing has been done by video conferencing.
2. The Petitioners' grievance in the present petition is that an *ex parte* order was passed by the trial court on 17<sup>th</sup> August, 2020 restraining the construction/erection/installation of a cellular tower over property bearing no. RZ-1, Khasra No.264 and 268, Village Nasir Pur, Ashok Park, West Sagar Pur, New Delhi. The Petitioners moved an application under Order XXXIX Rule 4 CPC before the Id. ASCJ, Patiala House Courts, however, both the injunction application and the application seeking vacation have not been heard for several months. On one occasion the trial court had heard the matter but did not pass orders and the Petitioner no.1 company is incurring huge expenses, making payments to the Corporation and other authorities and still unable to make the tower operational.
3. Ld. counsel for Respondent Nos.1 to 5, who are the original Plaintiffs in the suit, appear in the matter and submit that they have not delayed the

matter. Ld. counsel for the SDMC is also present.

4. A perusal of the order sheet of the trial court shows that the matter has been repeatedly adjourned since August, 2020, after the *ex parte* order was granted. Hearing has, in fact, taken place on 16<sup>th</sup> September, 2020, and a Status Report has also been filed on behalf of the SDMC. Hearing was again conducted on 12<sup>th</sup> November, 2020 and the matter was listed for clarification/order on 20<sup>th</sup> November, 2020. Thereafter, the Judicial Officer changed and the matter has been adjourned for arguments on various dates.

5. Considering the fact that the Petitioner is expressing an urgency in the matter and that the applications under Order XXXIX Rules 1 and 2 CPC and Order XXXIX Rule 4 CPC have been pending since August, 2020, it is directed that the said applications be taken up on 5<sup>th</sup> February, 2021. After hearing the parties, orders on both the applications shall be passed by the Trial Court within a period of 30 days.

6. This Court has repeatedly emphasised that once arguments are heard by a Court, listing the matter for clarification/order is not permissible, which is what the judicial officer presiding initially has done in the present case. It needs no further emphasis that once arguments are heard by the Trial Court, within a reasonable period, as held, orders would have to be pronounced. This has been repeatedly settled by the Supreme Court in **Balaji Baliram Mupade & Anr. v. State of Maharashtra & Ors. [Civil Appeal No. 3564/2020, decided on 29<sup>th</sup> October, 2020]** as also by this Court in **Deepti Khera v. Siddharth Khera [CM (M) 1637/2019, decided on 18<sup>th</sup> November, 2019]**. The observations in **Deepti Khera (supra)** are set out below:

“6. *It is the settled position in law, as per the judgment*

of the Hon'ble Supreme Court in **Anil Rai v. State of Bihar, (2001) 7 SCC 318** that once matters are reserved for orders, usually, the same should be pronounced within a time schedule. In **Anil Rai (supra)** it has been observed as under:

“8. The intention of the legislature regarding pronouncement of judgments can be inferred from the provisions of the Code of Criminal Procedure. Sub-section (1) of Section 353 of the Code provides that the judgment in every trial in any criminal court of original jurisdiction, shall be pronounced in open court immediately after the conclusion of the trial or on some subsequent time for which due notice shall be given to the parties or their pleaders. The words “some subsequent time” mentioned in Section 353 contemplate the passing of the judgment without undue delay, as delay in the pronouncement of judgment is opposed to the principle of law. Such subsequent time can at the most be stretched to a period of six weeks and not beyond that time in any case. The pronouncement of judgments in the civil case should not be permitted to go beyond two months.”

7. The Hon'ble Supreme Court in **Anil Rai (supra)** has also passed certain guidelines regarding pronouncement of judgments. The same are reproduced below:

(i) The Chief Justices of the High Courts may issue appropriate directions to the Registry that in a case where the judgment is reserved and is pronounced later, a column be added in the judgment where, on the first page, after the cause-title, date of reserving the judgment and date of pronouncing it be separately mentioned by the Court Officer

concerned.

(ii) *That Chief Justices of the High Courts, on their administrative side, should direct the Court Officers/Readers of the various Benches in the High Courts to furnish every month the list of cases in the matters where the judgments reserved are not pronounced within the period of that month.*

(iii) *On noticing that after conclusion of the arguments the judgment is not pronounced within a period of two months, the Chief Justice concerned shall draw the attention of the Bench concerned to the pending matter.*

*The Chief Justice may also see the desirability of circulating the statement of such cases in which the judgments have not been pronounced within a period of six weeks from the date of conclusion of the arguments amongst the Judges of the High Court for their information. Such communication be conveyed as confidential and in a sealed cover.*

(iv) *Where a judgment is not pronounced within three months from the date of reserving it, any of the parties in the case is permitted to file an application in the High Court with a prayer for early judgment.* *Such application, as and when filed, shall be listed before the Bench concerned within two days excluding the intervening holidays.*

(v) *If the judgment, for any reason, is not pronounced within a period of six months, any of the parties of the said lis shall be entitled to move an application before the Chief Justice of the High Court with a prayer to withdraw the said case and to make it over to any other Bench for fresh arguments. It is open to the Chief Justice to grant the said*

*prayer or to pass any other order as he deems fit in the circumstances.*

8. *The Civil Procedure Code, 1908, prescribes thirty days as the time in which a judgment should be pronounced. Order XX Rule 1 of the CPC reads as under:*

*“1. Judgment when pronounced. — [(1) The Court, after the case has been heard, shall pronounce judgment in an open Court, either at once, or as soon thereafter as may be practicable and when the judgment is to be pronounced on some future day, the Court shall fix a day for that purpose, of which due notice shall be given to the parties or their pleaders:*

*Provided that where the judgment is not pronounced at once, every endeavour shall be made by the Court to pronounce the judgment within thirty days from the date on which the hearing of the case was concluded but, where it is not practicable so to do on the ground of the exceptional and extraordinary circumstances of the case, the Court shall fix a future day for the pronouncement of the judgment, and such day shall not ordinarily be a day beyond sixty days from the date on which the hearing of the case was concluded, and due notice of the day so fixed shall be given to the parties or their pleaders.]”*

9. *While this Court is conscious of the fact that there are pressures on the Trial Courts, non-pronouncement of orders for more than a year cannot be held to be justified. It has been observed in several matters that trial courts keep matters ‘FOR ORDERS’ for months together and sometimes orders are not pronounced for even 2-3 years. Thereafter the judicial officer is transferred or posted in some other jurisdiction and the*



*matter has to be reargued. Such a practice puts enormous burden on the system and on litigants/lawyers. The usual practice ought to be to pronounce orders within the time schedule laid down in the CPC as also the various judgements of the Supreme Court. In civil cases maximum period of two months can be taken for pronouncing orders, unless there are exceptional cases or there are very complex issues that are involved.*

*10. Accordingly, in respect of pronouncement of orders, the following directions are issued:*

*i. When arguments are heard, the order sheet ought to reflect that the matter is part-heard;*

*ii. Upon conclusion of arguments, the order sheet ought to clearly reflect that the arguments have been heard and the matter is reserved for orders. If the court is comfortable in giving a specific date for pronouncing orders, specific date ought to be given;*

*iii. Orders ought to be pronounced in terms of the judgment of the Supreme Court in **Anil Rai (supra)**;*

*iv. The order ought to specify the date when orders were reserved and the date of pronouncement of the order.”*

The above legal position has been repeatedly communicated to judicial officers, however the practice of listing matters for clarification/order does not seem to abate. After conclusion of hearing, listing the matter for clarification/order is not permissible, in a routine manner.

7. Parties to appear before the Trial Court on 5<sup>th</sup> February, 2021. No unnecessary adjournment shall be granted to either party.

8. With these observations the present petition, along with all pending applications, is disposed of.

9. Let a copy of this order be sent to the Id. District and Sessions Judge, Patiala House Courts as also the concerned court of the Additional Senior Civil Judge, Patiala House Courts. In addition, a copy of this order shall be specifically communicated by the worthy Registrar General to Dr. Pankaj Sharma, Additional Senior Civil Judge, Patiala House Court, Delhi.

**PRATHIBA M. SINGH  
JUDGE**

**JANUARY 29, 2021**  
*dj/T*

