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

% **Date of Decision: 29th April, 2025**

+ **CM(M) 776/2025 & CM APPL. 25318/2025**

SMT. SUMAN SHARMA

.....Petitioner

Through: Mr. Jai Wadhwa and Mr. Ronak
Karanpuria, Advocates along with
petitioner in person.

versus

MAHENDER SHARMA & ORS.

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. The point raised in the present petition is a very short one.
2. Petitioner has filed a suit against her husband and two others and seeks declaration and cancellaton of one *Sale Deed* dated 31.07.2022.
3. She also sought permission to file the abovesaid suit as an *indigent person*, which request was acceded to by the learned Trial Court.
4. However, during the further proceeding of the matter, the petitioner was imposed with cost of Rs.2,000/- on 13.02.2023 and of Rs.5,000/- on 13.07.2023.
5. She prayed for waiver of the cost but the cost was rather reduced from Rs.7,000/- to Rs.5,000/-.
6. According to petitioner, there is an order of maintenance in her favour and maintenance is to be paid @ Rs.4,000/- per month by her husband (defendant No.1), who has not been paid the same for last more than one year.



7. It is also submitted that when the matter was taken up by the learned Trial Court on 06.03.2025, her further request for waiver of the cost was also declined, while burdening her with another cost of Rs.200/-.

8. It is submitted that the learned Trial Court did not appreciate the abovesaid aspect and since the respondent/defendant-Mr. Mahender Sharma was in arrears of maintenance, the cost should have rather been waived.

9. Learned counsel for petitioner also submits that the petitioner, herself, was not responsible for delaying the proceedings. She was represented by a *legal-aid counsel* and such counsel kept on changing, from time to time, and on various occasions, the request for adjournment had been made by such *legal-aid counsel* on account of medical exigency etc. He supplements that the Court should have, particularly, keeping in mind the fact that the petitioner was pursuing the suit as an *indigent person*, waived the cost.

10. This Court has also gone through the application moved under Section 151 CPC which seeks waiver of cost and in such application, the petitioner/plaintiff has, clearly, highlighted that her husband is not paying her maintenance as per the direction of the Court and there are arrears to the tune of Rs.2.5 lacs.

11. It looks that the abovesaid application has been disposed of by the learned Trial Court, without taking any response from her husband i.e. defendant No.1 before the learned Trial Court.

12. None appears on behalf of the respondent despite service of advance notice through speed post.

13. Normally, Writ Courts do not invoke supervisory jurisdiction with respect to grievance raised in relation to imposition of cost but in the case in hand, there are two disturbing aspects.



14. Firstly, the petitioner, a lady, has filed the suit as an *indigent person* and is solely relying on the legal aid counsel provided to her by the concerned Authority. Moreover, when she prayed for waiver of the cost, her application was also dismissed while burdening her with another cost of Rs.200/- which was also not appropriate.

15. Secondly, the plaintiff had, categorically, mentioned in her application that her husband was not paying any maintenance to her and the arrears of maintenance were to the tune of Rs.2.5 lacs and without taking any response in this regard from the defendant, the Court should not have, in a summary manner, dismissed the application.

16. Keeping in mind the overall facts of the case, the present petition is allowed by waiving the entire cost of Rs.5,000/- as well as the additional cost of Rs.200/-.

17. The learned Trial Court is requested to proceed further with the matter in accordance with law.

18. The petition stands disposed of in aforesaid terms.

19. Pending applications, if any, stand disposed of.

(MANOJ JAIN)
JUDGE

APRIL 29, 2025/ss/SS