

R. P. Jagga and others v. Calcutta Electric Company and others
(A. L. Bahri, J.)

discretion in the grant of injunction. It has not been shown that this discretion was exercised illegally in any manner.

(9) Finding no merit in the revision, the same is dismissed. There will be no order as to costs.

S.C.K.

Before : A. L. Bahri, J.

R. P. JAGGA AND OTHERS,—Petitioners.

versus

CALCUTTA ELECTRIC COMPANY AND OTHERS,—Respondents.

Civil Revision No. 2068 of 1990.

27th July, 1990.

Code of Civil Procedure, 1908—O. 41, Rl. 11—Principle of Natural Justice—Affording opportunity of hearing—Notices issued under Rule 11 of Order 41—Counsel not appearing as members of Bar on strike—Adjournment of hearing time and again—Whether such adjournment justified.

Held, that what the principles of natural justice require is only that an opportunity of hearing is to be given to the opposite party while deciding the lis—It is entirely left to the opposite party or the Advocate, representing him to appear and plead the cause. Actual hearing can be given if the counsel puts in appearance and argues the case, otherwise notice of hearing should be considered sufficient as required in Order 41 Rule 11 of the Code of Civil Procedure. The Additional District Judge was not at all justified in postponing the decision on Misc. matters when one of the petitioners, had been appearing in Court and asking for the decision. It was the duty of the Court to go into the merits of the case and give the decision and should not have postponed the hearing merely on the representations of the proxy counsel.

(Para 3)

Petition u/s. 115 C.P.C. for revision of the order of the Court of Shri B. R. Gupta, Addl. District Judge, Chandigarh dated 19th July, 1990 a adjourning the case to the date fixed on 7th November, 1990 as Bar is on strike.

Claim : Suit for eviction and damages.

Claim in Revision : For reversal of the order of the Lower Court.

R. P. Jagga, Advocate, for the Petitioner (In person)

JUDGMENT

(1) This Revision Petition can be disposed of without giving notice to the other party, as no directions are to be given on merits of the case.

(2) Mr. R. P. Jagga, one of the Petitioners is an Advocate. He and other petitioners are landlords. They filed a civil suit for ejection of the respondents Calcutta Electric Company and others. The suit was decreed on January 24, 1990 and a sum of Rs. 1,500 per mensem was also fixed as damages for use and occupation. The defendants feeling aggrieved by the judgment and decree of the trial Court filed an appeal, which was before the Additional District Judge, Chandigarh for disposal. After the appeal was entertained, an *ex-parte* order was passed on February 3, 1990. The appeal was admitted. Notice of the appeal was ordered to issue on the Misc. application and the appellants were ordered to pay/deposit the arrears of rent at the rate of Rs. 800 per mensem within seven days and if they continued paying or depositing in future by the 7th of every month the said amount, the judgment and decree appealed was to remain as stayed. On the next date of hearing i.e. March 14, 1990, Mr. R. P. Jagga appeared and he moved Misc. Applications, one of them being for dismissal of the appeal for non-payment of correct court fee and second for producing the additional evidence and the third one for vacation of the interim order. The Additional District Judge adjourned the case to April 2, 1990 for filing replies. On that day both the parties were represented, replies were filed. However, arguments were not heard and the case was adjourned to April 6, 1990. On that day, lawyers abstained from working in the Courts. Proxy counsel appeared and the case was adjourned to May 8, 1990. On that day, the Presiding Officer was on leave and on the subsequent date i.e. May 15, 1990 the Bar was again on strike, though proxy counsel appeared and the case was adjourned to June 16, 1990. On that day again the Bar was on strike and the Court adjourned the case to November 7, 1990 for arguments. Long date was given on account of summer vacations intervened, in between. An application was filed by Mr. R. P. Jagga, the present petitioner on June 11, 1990 for preponing the hearing so that the Misc. matter could be taken up. On that application notice was given to the opposite party for July 19, 1990. On that date Mr. R. P. Jagga, appeared in person, however, on behalf of the opposite party Mr. Mittal appeared as proxy. Since the Bar was again on strike, the case was again adjourned for the date already fixed i.e. November 7, 1990. Mr. R. P.

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Jagga having felt the pinch that his matter which related to interim directions during the pendency of the appeal, was not being disposed of on account of the Bar going on strike has approached this Court for redress.

(3) It is not for the Court to make any observations regarding the causes for which the Bar went on strike on different dates as mentioned in the orders. No comments regarding justification or otherwise can be made nor it is alleged in the Revision Petition. Be that as it may, the question for consideration in this Revision Petition is only regarding the conduct of the Additional District Judge for not disposing of the Misc. Applications inspite of the fact that Mr. R. P. Jagga, the petitioner, had been appearing in Court and persisting for disposal of the same. What the principles of natural justice require is only that an opportunity of hearing is to be given to the opposite party while deciding the *lis*. It is entirely left to the opposite party or the Advocate, representing him to appear and plead the cause. Actual hearing can be given if the counsel puts in appearance and argues the case, otherwise notice of hearing should be considered sufficient as required in order 41 rule 11 of Code of Civil Procedure. The Additional District Judge was not at all justified in postponing the decision on Misc. matters. Mr. R. P. Jagga, who is one of the petitioners, had been appearing in Court and asking for the decision. It was the duty of the Court to go into the merits of the case and give the decision and should not have postponed the hearing merely on the representations of the proxy counsel. Even when the Additional District Judge was made aware of this fact that the hearing should be preponed, after giving notice to the opposite party the matter should have been disposed of, there was no justification then again to adjourn the case to the month of November for decision on the Misc. Applications.

(4) For the reasons stated above, a direction is given to the Additional District Judge, Chandigarh to prepone the hearing of the Misc. Applications regarding stay and dispose the same within one month from the date of receipt of this order, of course after giving notice to the counsel for the opposite party or the party itself. The petitioner is directed to appear in the Court of the Additional District Judge, Chandigarh on August 3, 1990. This Civil Revision thus, stands disposed of as per directions given above.

S.C.K.