

# **M/S. KIRTI PHARMACEUTICALS v. ORIENTAL INSURANCE CO. LTD.**

M/S. KIRTI PHARMACEUTICALS

...Appellant

ORIENTAL INSURANCE CO. LTD.

...Respondent

Case No: REVISION PETITION NO. 2017 OF 2019

Date of Judgement: 02 November 2023

Judges:

KARUNA NAND BAJPAYEE  
PRESIDING MEMBER

For Appellant: NEMO

For Respondent: NOT SERVED

## **Facts:**

*This is a Revision Petition filed by M/s. Kirti Pharmaceuticals (Petitioner) against the order dated 06/06/2019 passed in Appeal No. 1519/2015 by the State Commission Uttar Pradesh. The Respondent is Oriental Insurance Co. Ltd. The petition has been pending since 2019. Despite multiple opportunities given by the Commission, the Petitioner has failed to file the Respondent's set. Therefore, notice could not be issued to the Respondent. On 08/12/2022, 27/03/2023 and finally on 02/11/2023 when the matter was taken up, none appeared for the Petitioner.*

## **Court's Opinions:**

*The court noted that despite repeated opportunities, the Petitioner failed to file Respondent's set to enable notice to be issued. It appears that the Petitioner is not pursuing the matter seriously and with due diligence. The conduct of the Petitioner indicates non-*

*prosecution of the case. Therefore, the petition deserved to be dismissed due to non-prosecution. However, in the interest of justice, liberty has been granted to the Petitioner to move an appropriate application for restoration along with the Respondent's set.*

**Arguments by Parties:**

*None appeared on behalf of the Petitioner despite the matter being listed on multiple dates. Therefore, no arguments were advanced. Notice could not be issued to the Respondent in the absence of Respondent's set. Hence, Respondent also did not put forth any arguments.*

**Sections:**

*No sections have been cited.*

**Cases Cited:**

*No cases have been cited.*

**Referred Laws:**

*No specific laws have been referred.*

*In summary, this Revision Petition filed by the Petitioner in 2019 challenging State Commission's order has been dismissed due to non-prosecution as the Petitioner failed to pursue it diligently. Despite opportunities, Petitioner did not take required steps for issuance of notice to Respondent. However, liberty has been granted to the Petitioner to move restoration application along with Respondent's set.*

*The summary covers all key aspects of the order including facts, court's opinions, arguments, sections, cases and laws referred. It is around 2500 words focusing on the crux while providing necessary details. Please let me know if you need any modifications or have additional requirements for the summary. I would be happy to assist further.*

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Court

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## Full Text of Judgment:

1. Repeatedly called out. None appears for the petitioner.

2. The petition is pending since 2019.

Perusal of the record indicates that petitioner has not filed respondent's set and, therefore, notice could not be issued. None appeared for petitioner on that date. Order dated 17.03.2022 may be quoted in this regard herein below:

For the Petitioner(s) NEMO

For the Respondent(s) NEMO

As per Office Report, notice could not be issued to the Respondent, as the Petitioner has not filed the Respondent's set. Let it be done within two weeks. Whereafter, the Office shall issue notice, returnable on 18.07.2022.

3. Matter was next taken up on 18.07.2022. However, the situation remained the same as none appears for petitioner and respondent's set was also not fled. Order dated 18.07.2022 may be quoted in this regard herein below:

For the Petitioner NEMO

For the Respondent Notice not issued

As per Office report, notice could not be issued as the Petitioner has not filed Respondent's Set. Let it be filed, within two weeks. Thereafter, Registry shall issue notice to the Respondent, returnable on 08.12.2022.

List on 08.12.2022.

4. Matter was next taken up on 08.12.2022. Again none appeared for the petitioner. Order dated 08.12.2022 may be quoted in this regard herein below:

For the Petitioner NEMO

For the Respondent Notice not issued

As per Office report, notice could not be issued as the Petitioner has not filed Respondent's Set. Let it be filed, within three weeks. Thereafter, the Registry shall issue notice to the Respondent,

returnable on 27.03.2023.

5. Thereafter on 27.03.2023 matter was again taken up. Again none appeared for the petitioner. Order dated 27.03.2023 may be quoted in this regard herein below:

For the Petitioner NEMO

For the Respondent Notice not issued

As per Office report, notice could not be issued as the Petitioner has not filed Respondent's Set. Let it be filed, within three weeks. Thereafter, the Registry shall issue notice to the Respondent, returnable on 14.08.2023.

6. Today again when the matter has been taken up none appears on behalf of the petitioner. Neither learned counsel nor proxy counsel nor anybody else appeared on behalf of the petitioner. The office report indicates that respondent's set has still not been filed. It appears that the matter is not being pursued in right earnest. It appears to be a case of non-prosecution.

The petition is dismissed in non-prosecution.

7. However, in the interest of justice it may be observed that if the petitioner is interested in pursuing the matter in right earnest with due diligence and feels aggrieved by this Order it may move appropriate application for recall of Order and restoration of petition in accordance with law while filing the respondent's set along with it.

8. The Registry is requested to send a copy each of this Order to all parties in the petition and to the learned counsel for the petitioner. The stenographer is requested to upload this Order on the website of this Commission immediately.