



2025:DHC:8230



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

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Date of Decision: 17.09.2025

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CM(M) 1827/2025, CM APPL. 58843/2025 & CM APPL. 58842/2025

AAJ SUPPLY CHAIN MANAGEMENT PVT. LTD. FORMERLY
KNOWN AS AAJ ENTERPRISES PRIVATE LIMITED

.....Petitioner

Through: Mr. Mohit Aggarwal and Ms. Pooja
Saini, Advocates.

versus

SKYLARK EXPRESS (DELHI) PVT. LTD

.....Respondent

Through: Ms. Snigdha Singh, Advocate.

CORAM: JUSTICE GIRISH KATHPALIA

J U D G M E N T (ORAL)

1. Petitioner has assailed order dated 14.07.2025 of learned Commercial Court, whereby application filed by petitioner under Order VIII Rule 1 CPC was dismissed.

2. From the impugned order it appears that on 19.06.2024, summons of the suit were served on the petitioner/defendant, but he filed the Written Statement on 05.11.2024 along with an application under Order VIII Rule 1



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CPC, explaining that on 03.09.2024, when on service of summons counsel for petitioner/defendant appeared in the trial court, the learned Judge being on leave, Ahlmad of the court recorded his plea that the copy of plaint and annexures were illegible and counsel for the present respondent/plaintiff assured to supply a legible copy. But the legible copy was supplied only on 05.10.2024 and the Written Statement was filed on 05.11.2024. Learned trial court took a view that it is the petitioner/defendant who should have made efforts to seek copies of the paperbook by moving a proper application after service of summons.

3. Learned counsel for petitioner/defendant submits that it is not a case where on 03.09.2024, the present respondent/plaintiff claimed that legible paperbook had already been supplied and an additional paperbook would also be provided; since had that been the case, the petitioner/defendant would not have been able to claim benefit of belated supply of the paperbook. Learned counsel for petitioner/defendant submits that the present respondent/plaintiff did not supply the paperbook immediately or soon after 03.09.2024 but supplied the same much later on 05.10.2024, so that the period of 120 days after service of summons also would elapse. Further, it is contended by learned counsel for petitioner/defendant now that Written Statement has already been filed, it would be fair and justifiable if the same is taken on record.

4. Learned counsel for respondent appearing on advance intimation



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accepts notice and does not dispute that there is nothing on record to show that what was supplied to the petitioner/defendant on 05.10.2024, was a duplicate/additional set of paperbook. However, learned counsel for respondent/plaintiff strongly contends that there is nothing on record to explain as to why the petitioner/defendant after being served with the summons on 19.06.2024 stayed silent and did not write any letter to the respondent/plaintiff or the counsel, requesting for legible copies; not even any application for legible copies was filed formally.

5. After addressing partly, learned counsel for respondent/plaintiff on instructions of her client submits that in the interest of expeditious disposal of the suit, the respondent/plaintiff has no objection if this petition is allowed subject to heavy cost.

6. Considering the overall circumstances discussed above and also keeping in mind the cardinal principle of justice that disputes, as far as possible should be decided on merits instead of defaults, especially where the defaulting party can be burdened with a cost to compensate the other party, the courts can extend indulgence. In the present case, as mentioned above, the Written Statement has already been filed.

7. Therefore, with consent of both sides, the impugned order to the extent of dismissal of application under Order VIII Rule 1 CPC is set aside and the present petition is allowed subject to the present petitioner paying



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the cost of Rs. 25,000/- to the present respondent/plaintiff within one week. It is made clear that if the cost is not paid within one week from today, the Written Statement shall be taken off the record. The accompanying applications also stand disposed of.

**GIRISH KATHPALIA
(JUDGE)**

SEPTEMBER 17, 2025/dr