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

% **Date of Decision: 06th May, 2025**

+ CM(M) 635/2025 & CM APPL. 20194-20195/2025

B M TIWARIPetitioner

Through: Mr. Shubham Sharma, Advocate.

versus

RAMDIN GUPTARespondent

Through: Mr. Vikas Mishra, Advocate.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. When the present petition was taken up on the last date of hearing i.e. 07.04.2025 the following observations were recorded:-

“1. Petitioner is defending a commercial suit.

2. According to learned counsel for petitioner/defendant, he was served with summons on 25.09.2024 and, initially, written statement was filed through e-filing module on 25.10.2024 i.e. within the initial prescribed period of 30 days. Since softcopy was not complete in certain aspects, hardcopy was also placed before the learned Commercial Court on 07.11.2024.

3. Learned counsel for petitioner, very fairly, concedes that on account of inadvertence, the defendant could not place on record affidavit of admission/denial of documents but fact remains that such affidavit was also placed on record on 24.12.2024 and according to him, all the prescribed mandatory formalities were, thus, completed within the permissible outer limit of 120 days but despite that his written statement has been taken off the record.

4. He also submits that application had been moved by him under Order VI Rule 17 CPC by way of abundant caution only, and to ensure that all the requisite formalities are completed and with no other purpose.”

2. Mr. Mishra, learned counsel for respondent/plaintiff, has joined the proceedings through *video-conferencing* and he, in all fairness, submits that the written statement as well as the *affidavit of the admission/denial* of the documents were furnished belatedly but within the permissible outer limit of 120 days.



3. He does admit that the defendant was served with the summons on 25.09.2024 and the *affidavit of the admission/denial* was also submitted on 24.12.2024. However, according to him, the defendant should have been careful and cautious and should have made the best endeavour to submit the written statement along with the affidavit within the initial prescribed period of 30 days.

4. However, at the same time, in order to ensure that there is no further delay in the matter, Mr. Mishra, submits that he would have no objection, if the written statement is directed to be taken on record, *albeit*, subject to exemplary cost.

5. Keeping in mind the overall facts of the case and the fact that the written statement and *affidavit of admission/denial* have been filed within the maximum permissible outer limit and in view of the gracious concession given by the respondent/plaintiff, the present petition is disposed of with direction that such written statement and *affidavit of admission/denial* shall be deemed to be on record.

6. However, for causing delay in the matter, the defendant is burdened with a cost of Rs.25,000/- which shall be paid by him to the plaintiff/learned counsel for the plaintiff on the next date of hearing before the learned Trial Court which is stated to be 08.05.2025.

7. It also needs to be highlighted that the defendant had moved an application seeking amendment in the written statement and the abovesaid application was dismissed on the premise that since there was no written statement on record, there was no point or question of it being amended. Since now the written statement has been directed to be taken on record, the learned Trial Court shall hear the arguments on the application moved by the



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defendant under Order VI Rule 17 CPC afresh and would dispose of such application in accordance with law, after giving due opportunity of hearing to both the sides and without being prejudiced by its earlier order dated 11.02.2025.

8. The petition stands disposed of in aforesaid terms.
9. Pending applications, if any, stand disposed of.

(MANOJ JAIN)
JUDGE

MAY 6, 2025/ss/SS