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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of Decision: 14th August, 2025***+ **CM(M) 1263/2025 & CM APPL. 42244-42245/2025****HARISH KUMAR**

.....Petitioner

Through: **Mr. Amit Alok & Mr. Saurav Prakash,**
Adv. alongwith petitioner in person.

versus

YATENDER ARORA & ORS.

.....Respondents

Through: **Mr. Mohit Batra & Mr. Saket Gakhar,**
Adv. alongwith R-1 in person.**CORAM:****HON'BLE MR. JUSTICE MANOJ JAIN****J U D G M E N T (oral)**

1. The matter could not get settled and a report to that effect has also been received from *Delhi High Court Mediation and Conciliation Centre*.
2. The prime grievance of petitioner/defendant is to the effect that he had already submitted written statement through e-filing module on 08.04.2025 and that he could not draw the attention of the abovesaid vital fact to the learned Trial Court.
3. The date of service of summons is 09.01.2025.
4. As per the impugned order, the written statement filed by petitioner/defendant has not been taken on record as it had been filed after 128 days, reckoned from the date of service. Learned Trial Court, reckoned such period as per the date on which hard copy was submitted.
5. It was in the abovesaid backdrop that his right to file written statement was closed and his defence was struck off by learned District Judge, Commercial Court-02 on 17.05.2025.



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6. Such order is under challenge.
7. During course of arguments, learned counsel for petitioner reiterated that there is some typographical error in the prayer made in the present petition and the sole endeavour of petitioner herein is to seek relief in context of order dated 17.05.2025 whereby his defence was struck off and written statement was not taken on record. At the moment, according to him, the defendant does not challenge order dated 07.05.2025.
8. Learned counsel for petitioner submits that on account of some inadvertence, he could not apprise the learned Trial Court about the above significant aspect. According to him, e-copy of written statement was filed through e-filing module on 08.04.2025 and, therefore, the learned Trial Court could not have returned a finding that the written statement had been filed beyond the outer permissible limit of 120 days.
9. Learned counsel for respondents/plaintiffs does not dispute the abovesaid fact. However, he submits that defendant should have, at least, filed an application seeking condonation of delay in filing such written statement, which was certainly not within the initial 30 days, reckoned from the date of his service.
10. However, since the written statement has been filed within the permissible limit, learned counsel for respondents/plaintiffs submits that he does not want any further delay in his suit and would not have any objection, if the written statement is directed to be taken on record, *albeit*, subject to imposition of heavy cost.
11. Keeping in mind the overall facts and the abovesaid admitted position that the written statement was filed through e-filing module within the permissible outer limit and the gracious concession given by learned counsel



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for respondents/plaintiffs, the present petition is allowed with direction that such written statement shall be deemed to be on record.

12. However, for the belated filing of written statement, petitioner/defendant is burdened with cost of Rs.50,000/-, which be paid to the plaintiff on the next date fixed before the learned Trial Court, which is stated to be 19.08.2025.

13. The petition stands disposed of in aforesaid terms.

14. Pending applications also stand disposed of in aforesaid terms.

(MANOJ JAIN)
JUDGE

AUGUST 14, 2025/ck/js