



\$~47

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

% *Date of Decision: 15th May, 2025*

+ CM(M) 900/2025 & CM APPL. 29342-29344/2025
ZENITH VIPERS SOLUTIONS PVT. LTD.

.....Petitioner

Through: Ms. Harshita Aggarwal, Advocate.

versus

JASMEET SINGH MARWAH

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Petitioner seeks another opportunity to file written statement.
2. A very short point is involved.
3. A suit for recovery of Rs.54 lacs with interest was filed by respondent Mr. Jasmeet Singh Marwah, way back in the year 2018.
4. Admittedly, the petitioner herein, who is the sole defendant in said suit, was served with summons on 26.04.2018 and entered its appearance before the learned Trial Court on 02.05.2018.
5. According to the defendant, complete copy of the plaint had not been received by them. Fact remains that, instead of filing any written statement, they filed multiple applications.
6. These applications were under Order VII Rule 11 CPC, under Section 340 Cr.P.C., under Section 33, 35 and 38 of Indian Stamps Act, 1899 and Order VIII Rule 10 CPC.
7. Application moved under Order VII Rule 11 CPC was dismissed by the



learned Trial Court on 03.09.2019 and since its application under Order VIII Rule 10 CPC was also pending, learned Trial Court deemed it fit to grant defendant another 15 days time to file written statement.

8. During course of the arguments, learned counsel for the petitioner, in all fairness, submitted that in such application moved under Order VII Rule 11 CPC, they had simply taken objection to the effect that the suit had not been instituted by a duly authorized person. She also, very fairly, admits that in said application, they had not even taken any plea that there was an *Arbitration Agreement* between the parties.

9. Fact remains that after the dismissal of the abovesaid application, the defendant moved another application under Order VII Rule 11 CPC and did not file written statement, within the time granted by the learned Trial Court. Interestingly, the plaintiff gave concession to the defendant and stated before the learned Trial Court that he would have no objection if the time is further extended for filing written statement by the defendant.

10. Despite that, defendant did not file written statement and, instead, attempted to pursue with his application under Order VII Rule 11 CPC in which he also came up with submission that there was an *Arbitration Agreement* between the parties. Defendant also moved separate application under Section 8 of Arbitration and Conciliation Act, 1996 seeking reference of disputes to Arbitrator. However, *vide* order dated 07.02.2024, learned Trial Court dismissed both the abovesaid applications.

11. Apparently, since the defendant had participated in the proceedings, the learned Trial Court was of the view that the defendant had waived his right to seek reference to Arbitration.

12. Be that as it may, fact remains that such order dated 07.02.2024 has



attained finality as it was never challenged by defendant.

13. Defendant, however, felt that after the dismissal of the abovesaid application, it got fresh lease of life and, therefore, the learned Trial Court should have permitted further time to file written statement.

14. Such request is completely erroneous and misplaced.

15. It rather seems that the learned Trial Court had been extra-benevolent and generous to the defendant and though mere filing of multiple applications, including an application filed under Order VII Rule 11 CPC, could not have given any right or handle to defendant to seeks extension of time, fact remains that not once but twice, the time was extended for filing of written statement. Such opportunity, which was never availed, has gone begging.

16. Admittedly, the defendant was served way back on 26.04.2018 and the defendant company was, all along represented by lawyer and, therefore, the defendant company cannot even plead ignorance of law.

17. Moreover, legal position is no longer *res integra*.

18. Merely, because an application under Order VII Rule 11 CPC has been filed and is pending adjudication would not *ipso facto* extend the period of limitation meant for filing of written statement. Reference in this regard be made to *SCG Contracts (India) (P) Ltd. v. K.S. Chamankar Infrastructure (P) Ltd.*, (2019) 12 SCC 210 wherein Hon'ble Supreme Court clarified as under:-

“14. The learned counsel appearing for the respondents also relied upon R.K. Roja v. U.S. Rayudu [R.K. Roja v. U.S. Rayudu, (2016) 14 SCC 275 : (2017) 3 SCC (Civ) 270] for the proposition that the defendant is entitled to file an application for rejection of plaint under Order 7 Rule 11 before filing his written statement. We are of the view that this judgment cannot be read in the manner sought for by the learned counsel appearing on behalf of the respondents. Order 7 Rule



11 proceedings are independent of the filing of a written statement once a suit has been filed. In fact, para 6 of that judgment records : (SCC p. 277)

“6. ... However, we may hasten to add that the liberty to file an application for rejection under Order 7 Rule 11 CPC cannot be made as a ruse for retrieving the lost opportunity to file the written statement.””

19. View thus, this Court does not find any merit in the present petition and the same is dismissed in *limine*.

(MANOJ JAIN)
JUDGE

MAY 15, 2025/ss/pb