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

% *Date of Decision: 19th May, 2025*

+ CM(M) 272/2025

AMAR SEN & ANR.

.....Petitioners

Through: Mr. Vijay Kumar and Mr. Janme Jay,
Advocates (through V.C.)

versus

AJIT KUMAR SHARMA

.....Respondent

Through: Mr. Vikram Gujral, Advocate.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

CM APPL. 30376/2025 (stay)

1. The matter has been taken up today as the petitioners have moved an application seeking stay of the proceedings.
2. Learned counsel for respondent/plaintiff has also appeared on advance notice.
3. With the consent of both the sides, the main petition has been taken up today itself.
4. The next date of 20.05.2025 stands cancelled.
5. The application stands disposed of.

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6. The issue raised in the present petition is a very short one.
7. Respondent i.e. plaintiff filed a civil suit seeking injunction and damages.
8. Admittedly, the summons of the suit were received by the defendants



(petitioners herein) on 29.07.2024 and pursuant thereto, the appearance was also put by them before the learned Trial Court on 23.08.2024.

9. Admittedly, the defendants made a request for supplying legible copies of certain papers of the plaint and these were also, admittedly, supplied to them.

10. It is also admitted fact that written statement was filed by the defendants on 14.09.2024. Since there was delay in submitting such written statement, the plaintiff took objection that such written statement may not be taken on record and defendant be directed to file an application seeking condonation of delay.

11. The plaintiff also filed an application under Order VIII Rule 10 CPC praying for striking off the defence of the petitioner and it seems that pursuant thereto, the defendants filed an application seeking condonation of delay in submitting the written statement.

12. The learned Trial Court, *vide* impugned order dated 20.12.2024, allowed the application filed by the plaintiff and, resultantly, the defence of the defendants has been struck off.

13. Such order is under challenge.

14. The present suit is pending consideration before the concerned learned Administrative Civil Judge.

15. It is no longer *res integra* that the timeline for filing written statement in any regular suit i.e. non-commercial suit is, merely, directory in nature and not mandatory.

16. The written statement was, admittedly, filed on 47th day, reckoned from the date of service. No doubt, in terms of specific provision contained under proviso to Order VIII Rule 1 CPC, the initial time-limit for filing written



statement is thirty days and, therefore, defendants should have been careful and watchful. Moreover, since the written statement had not been filed within the initial period of thirty days, along with the belated submission of written statement, it should have also, immediately, moved an application, assigning reasons which prevented them from filing written statement and seeking condonation thereof.

17. At the same time, since the written statement had, admittedly, been filed on 47th day, the learned Trial Court should not have taken such rigid and hyper-technical approach and should not have struck off the defence of the defendants. It, though, observed that the procedure must be regarded as something designed to facilitate justice but in the same breath, it observed that the delay could be condoned only where the facts and circumstances justify the reasons for delay. It seems that the learned Trial Court got swayed away by the fact that the application moved by two defendants was bereft of any reason. That, in itself, could not have been the reason when legible and complete set of plaint was supplied on 23.08.2024 only and the written statement was filed on 14.09.2024. The time-gap between them is rather less than 30 days, even.

18. Since the defence of the defendants has been struck off, the outcome of the suit seems to be a foregone conclusion.

19. Keeping in mind overall facts and circumstances of the case, the present petition is allowed and while setting aside the impugned order dated 20.12.2024, it is directed that the written statement, which the defendants had filed on 14.09.2024, shall be deemed to be on record. However, for belated filing, the defendants are burdened with cost of Rs.20,000/- which shall be paid to plaintiff/learned counsel for the plaintiff on the next date of hearing



before the learned Trial Court.

20. Needless to say, the defence of the defendants also stands restored. The plaintiff would, therefore, be at liberty to file replication, if any, and the learned Trial Court would, thereafter, proceed further with the matter, in accordance with law.

21. Petition stands disposed of in aforesaid terms.

(MANOJ JAIN)
JUDGE

MAY 19, 2025
st/js