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

% **Date of Decision: 21st July, 2025**

+ **CM(M) 1275/2025 & CM APPL. 42729/2025**

SIDDHARTH RAO

.....Petitioner

Through: Mr. Ravinder Kumar Yadav with
Ms. Arit Anupriya, Mr. Kartikey and
Mr. Paras Juneja, Advocates.

versus

ASJEET SINGH LAMBA

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Two different tenancies were created with respect to the premises in question situated at Oberoi Apartments, New Delhi-110054, *albeit*, tenants were different.
2. Both the petitions are pending adjudication before the same Court and the concerned lessor has already filed a suit for possession, injunction, *mesne profits* and damages.
3. Under the similar circumstances, the lessee in the other case i.e. Ms. Manisha Rao had filed a petition before this Court which was registered as CM (M) 1258/2025 and which has already been disposed of by this Court on 17.07.2025, while directing the learned Trial Court to issue notice in terms of



Order XV-A Rule 2 CPC before striking off the defence on account of non-compliance of the order passed under Order XV-A CPC.

4. The situation, in the case in hand, is also similar and the grievance of the petitioner herein is also to the same effect that his defence has been struck-off , without giving him any show cause notice.

5. The impugned order in the connected petition was also of the same date and the said petition was disposed of on 17.07.2025 while observing as under:-

“1.Grievance of the petitioner is, merely, limited to the effect that his defence has been struck off without complying the statutory provision as contained under Order XV-A CPC.

2.Petitioner herein is defending a suit for possession, injunction, mesne profits and damages and learned Trial Court passed an order on 15.01.2025 under Order XV-A CPC directing the petitioner herein to pay rent @ Rs. 49,500/- per month and to clear the arrears within one month.

3.The petitioner sought time from the learned Trial Court for a further period of five months to clear the arrears and learned Trial Court refused to grant any such time and, simultaneously, the defence has been struck off vide order dated 23.04.2025.

4.There is no qualm with respect to the settled legal position that before taking any such extreme step of striking off the defence, it is mandated for any such Court to issue notice in terms of Order XV-A Rule 2 CPC.

5.Learned counsel for respondent appears on advance notice and, while acknowledging the aforesaid flaw in the impugned order, submits that let there be a time-bound direction to learned Trial Court to decide the aforesaid aspect afresh so that there is no prejudice to the landlord who has not got any rent in terms of order dated 15.01.2025.

6.During course of arguments, learned counsel for petitioner submitted that the petitioner is suffering from cancer and would still somehow clear the arrears by making payment @ Rs. 1,50,000/- per month which is, virtually, three-times of monthly rent.

7.It will be entirely upto to the plaintiff/respondent and learned counsel for the plaintiff/respondent to consider the aforesaid proposal.

8.Fact, however, remains that since the defence was struck off without mandatory show cause notice, present petition is allowed and, resultantly, impugned order dated 23.04.2025 is set aside. However, keeping in mind the fact that arrears are quite huge, learned Trial Court is requested to issue requisite notice, preferably, within two weeks from today and thereafter to decide the aspect related to striking off the defence, after taking response of



the petitioner herein.

9. Petition stands disposed of in aforesaid terms.

10. Pending application also stands disposed of in the aforesaid terms.”

6. None appears on behalf of respondent despite advance notice.
7. Since the facts are similar and in the case in hand also, the defence has been struck-off without issuing any notice, the present petition is also disposed of in the same terms and learned Trial Court is requested to issue requisite notice, preferably, within 10 days from today and thereafter to decide the aspect related the striking off the defence, after taking requisite reply and response from the petitioner herein.
8. Petition stands disposed of in aforesaid terms.
9. Pending application also stands disposed of in the aforesaid terms.

(MANOJ JAIN)
JUDGE

JULY 21, 2025/sw/SS