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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 365/2016**
ISRAR AHMED

..... Petitioner
Through Ms.Anupam Dhingra and Ms.Veena
Jain, Advocates.

versus

SHARIF AHMED & ANR

..... Respondents
Through Nemo.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER
% **25.04.2016**

C.M. No.14457/2016 (exemption)

Exemption is allowed subject to just exceptions. Application disposed of.

CM(M) 365/2016, C.M. No.14456/2015 and C.M. No.14457/2015

Petitioner is aggrieved by the two orders passed by the Trial Judge. The first order is dated 17.12.2015 vide which his right to file written statement stood closed and the second order dated 12.02.2016 vide which the application filed by the petitioner under Order VII Rule 11 of the CPC had been dismissed. The petitioner is not aggrieved by the second order. She is impugning the first order alone.

Record shows that the present suit is a suit for possession filed

by the plaintiff against the defendant. Written stamen had been filed within the stipulated period. Defence of the defendant had been struck off on 17.12.2015. The Court had noted that the date of service is 22.9.2015. Written stamen was purported to have been filed on 17.12.2015 which beyond the stipulated period of 30 days yet within the extended period of 90 days. Contention of the petitioner before this Court is that the defendant was unaware of this valuable right which had accrued to him. He was unaware of the repercussion which would follow in case he will not file his written statement within the stipulated period of 30 days. Submission is that he was not informed by his counsel about the repercussion. Further submission is that a valuable right would be lost to the defendant in case he is not allowed to plead his defence.

Noting the above factual matrix as also the fact that the written stamen has now been filed on 17.12.2015 which was within a period of 58 days from the date of service, this Court is inclined to allow the prayer made by the petitioner and the written stamen which was filed on 17.12.2015 before the Trial Court is taken on record. This order is passed subject to payment of Rs.10,000/- as costs.

Petition disposed of.

Order dasti under signatures of the Court Master.

INDERMEET KAUR, J

APRIL 25, 2016

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