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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 355/2016
HARVIR SINGH Petitioner
Through Mr.Pradeep Chaudhary, Advocate.
versus
DHARAMBIR TYAGI Respondent
Through Nemo.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% 22.04.2016

C.M. No.14280/2016 (exemption)

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

CM(M) 355/2016 & C.M. No.14087/2016 (stay)

Petitioner is aggrieved by the order dated 01.02.2016 vide which his review petition seeking a review of the order dated 21.9.2015 had been dismissed. Vide order dated 21.9.2015 the written statement along with counterclaim filed by the defendant/petitioner had not been taken on record as the Court had noted that the extended period of 90 days from the date of service had also got expired and as such on the objection taken by the plaintiff the written statement-cum-counterclaim was not taken on record.

Record shows that the present suit is a suit for recovery of money. The petitioner/defendant was served on 18.4.2015. The next date fixed was 02.5.2015. On that date the Presiding Officer was on leave. The following date was 21.9.2015. The written statement-cum-counterclaim was filed on that date. It was not taken on record

for the reason as noted supra.

Learned counsel for the petitioner submits that although the written statement-cum-counterclaim was prepared by an advocate yet the petitioner/defendant who had appeared in person in the Court was not aware whether the written statement-cum-counterclaim had to be filed within 30 days or within the extended period of 90 days from the date of service and since the Presiding Officer on the last date i.e. on 02.5.2015 was on leave the written statement-cum-counterclaim could not be filed on that date. The second impugned order had dismissed the review petition wherein the petitioner had sought review of the order dated 21.9.2015. Submission of the learned counsel for the petitioner is that a valuable right would be lost in case he is not permitted to lead his defence. Prima facie he has a case in his favour. He prays that written statement-cum-counterclaim be taken on record subject to cost. It is stated that the written statement-cum-counterclaim has already been filed.

The written statement-cum-counterclaim which has already been filed by the petitioner/defendant is taken on record subject to payment of Rs.25,000/- as costs.

Petition disposed of.

Order dasti under signatures of the Court Master.

INDERMEET KAUR, J

APRIL 22, 2016

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