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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 471/2016
NARENDER GUPTA Petitioner
Through Mr.Abhishek Kumar, Advocate.
versus
MUNNA LAL PATHKAR @ PATWA Respondent

Through

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **13.05.2016**

C.M. No.18291/2016 (exemption)

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

CM(M) 469/2016 & C.M. No.18290/2016 (stay)

Petitioner is aggrieved by the order dated 16.3.2016 vide which his application under Order VIII Rule 1 read with Section 114 of the CPC seeking permission of the Trial Court to place on record belated written had been declined.

Record shows that the present suit is a suit for recovery of Rs.10 lacs. Defendant had been served on 30.5.2015. Written statement had to be filed within an outer limit of 30 days. The written statement was not filed within that stipulated period. An application under Order VIII Rule 1 of the CPC had been filed on 01.12.2015 seeking permission of the Court to bring on record the belated written statement. The averments made in the application have been perused. They are largely premised on the submission of the petitioner that elder daughter of the petitioner is suffering from Rayanauld's

Phenomenon; his younger daughter is suffering from Vitiligo. Both the children being under active medical treatment the petitioner was constrained to visit the hospital (AIIMS) regularly and mostly sometimes three days in a week. The petitioner himself is suffering from heart ailment. Further submission is that the parties had in fact negotiated a settlement and the plaintiff had agreed to withdraw the suit. The petitioner in that eventuality had not engaged a counsel in the first instance and when it came to the light that matter was to be contested only then he had engaged a counsel that is the reason why the mandatory period of 30 days was expired. Submission being that a valuable right would be lost in case the petitioner is not permitted to plead his defence. The medical reports of the daughters have also been placed on record.

In view of the aforementioned factual scenario, in the interest of justice keeping in view the aforementioned submissions, the impugned order is set aside. The written statement already filed by the petitioner is taken on record.

This order is passed subject to payment of Rs.20,000/- as costs.

Petition disposed of.

Order dasti under signatures of the Court Master.

INDERMEET KAUR, J

MAY 13, 2016/ndn