

\$~21(13.09.2016)

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

+ **FAO(OS) 159/2016 & CM 19801/2016**

INDU SINGH

..... Appellant

Through : Mr Samrat Nigam with Mr Achal Gupta

versus

SURENDER KAMBOJ & ORS

..... Respondents

Through : Ms Anita Sahani for R-1.
Mr Tanmaya Mehta with Mr Rohit K.
Naagpal for-2, 5 to 9.
Mr Ashish Mohan with Mr Mohit
Kumar for R-3.

CORAM:

HON'BLE MR. JUSTICE BADAR DURREZ AHMED

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

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14.09.2016

We have heard the learned counsel for the parties. The main grievance of the appellant is the imposition of costs of Rs 1 lac on the appellant, subject to which the written statement of the appellant (defendant No.9) would be taken on record. The learned counsel for the appellant points out that costs of Rs 25,000/- for an earlier delay in filing the written statement have already been paid to the respondent No.1. On 19.01.2016, the Court permitted the filing of the written statement within four weeks subject to payment of the said costs of Rs 25,000/-. The costs have since been paid and have been accepted by the respondent No.1. However, the written statement has not been taken on record inasmuch as it was filed on 27.02.2016, eight days beyond the period of four weeks given by the order

dated 19.01.2016. Because of this delay, the learned Single Judge has imposed further costs of Rs 1 lac on the appellant as a pre-condition for taking the written statement on record. The learned counsel for the appellant submitted that the costs might have been justified if there was any delay caused in the proceedings because of the late filing of the written statement by eight days. He submitted that the written statement was filed on 27.02.2016, well before the next date of hearing, which was 14.03.2016, and no delay was caused in the proceedings of the case by virtue of the late filing of the written statement of defendant No.9 by eight days.

We see merit in the submission made by the learned counsel for the appellant, particularly because no delay in the proceedings after 19.01.2016 has been caused on account of the late filing by eight days. Whatever delay has happened prior to 19.01.2016 has already been taken care of by imposition of costs of Rs 25,000/- which has been paid.

As a result, the direction with regard to imposition of costs of Rs 1 lac is set aside. The written statement of defendant No.9/appellant, which has been filed on 27.02.2016, is taken on record.

The appeal is allowed as above.

BADAR DURREZ AHMED, J

ASHUTOSH KUMAR, J

SEPTEMBER 14, 2016
SR