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

+ CM(M) 652/2016

TEJINDER SINGH BAKSHI Petitioner
Through Ms.Seema Singh, Advocate.

versus

AMARJEET KAUR & ORS Respondents
Through None.

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

ORDER
% **12.07.2016**

CM No. 24143/2016 (exemption)

Exemption is allowed subject to all just exceptions.

CM(M) 652/2016 and CM No. 24142/2016 (stay)

By the present petition, the petitioner seeks to impugn the order dated 26.04.2016 by which order the right of the petitioner/defendant to file the written statement was closed.

Learned counsel appearing for the petitioner submits that the petitioner/defendant No. 1 was served on 22.01.2016. Their first appearance was on 19.02.2016. It is urged that there was a delay in filing the written statement as they were trying to locate some documents including the Will, etc. It is urged that the written statement and an application for condonation of delay was said to have been filed on 26.04.2016 but the Trial Court did not accept the said document/application and closed the right of the

petitioner/defendant No.1 to file the written statement.

A perusal of the application which is sought to be filed by the petitioner under Order VIII Rule 1 CPC read with Section 151 CPC for extension of time for filing the written statement shows that it is averred in the application that the previous owner of the suit property was Late Sh.Trilochan Singh who had executed a Will in favour of the wife of the petitioner. It is urged that there was delay as the petitioner was trying to locate the copies of the said Will but the same could not be organised and hence, there was delay in filing of the written statement.

In my opinion the said application should be filed before the Trial Court inasmuch as the application thus reasons for the delay which will have to be dealt with by the Trial Court. Accordingly, liberty is granted to the petitioner to move the said application along with the written statement before the Trial Court. In case any such application is moved within one week from today, the Trial Court is requested to dispose of the application in accordance with law.

With these observations, the petition stands disposed of.

Copy of the order be given dasti under the signatures of the Court master.

JAYANT NATH, J

JULY 12, 2016
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