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

+ CM(M) 705/2016

APC LAND DEVELOPER PVT LTD Petitioner
Through Mr.Vikas Tomar and Mr.Rajiv Dalal,
Advocates.

versus

PARMINDER SINGH Respondent
Through Mr.Surendra Mishra and Ms.Sonal
Mishra, Advocates.

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

% **ORDER**
27.07.2016

CM Nos. 26166-67/2016 (exemption)

Exemption is allowed subject to all just exceptions.

CM(M) 705/2016 and CM No.26168/2016 (for additional document)

By the present petition, the petitioner seeks to impugn the order dated 01.07.2016. The said order was passed on an application filed by the petitioner/defendants No.1 and 2 seeking review of an earlier order dated 22.04.2016 whereby the right of the petitioner to file written statement was closed by the court.

The order dated 22.04.2016 states that despite last opportunity having been granted, the written statement has not been filed on record by defendants No.1 and 2/petitioner. The trial court noted the various order

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passed by the High Court where the original suit was pending and stated that despite repeated opportunities, the petitioner had not filed the written statement. It also noted that no cogent explanation has been furnished for non-filing of the written statement till date.

By the impugned order dated 01.07.2016 which was passed dismissing the review application, the trial court has noted the submission of the petitioner that the present advocate was engaged on 23.03.2016. The trial court also noted that the first effective date before the trial court was 18.03.2016 when the counsel had appeared for the petitioner and an opportunity was granted to the petitioner to file the written statement on 22.04.2016 which was the next date of hearing. On 22.04.2016, no written statement was filed. The trial court noted that the counsel for the petitioner gave no cogent explanation for not filing of written statement and accordingly, the right to file written statement was closed. Accordingly, the trial court held that there is no error apparent on the face of the record and dismissed the application

It is the stand of the petitioner that when the matter was pending before this court, their counsel who was engaged in December 2015 had prepared the written statement which was duly signed by the petitioner on 05.01.2016 and an advance copy of the same was also served on the learned counsel appearing for the respondent on 07.01.2016. The counsel had assured that the written statement would be filed.

It was urged that subsequently, it transpired that the written statement was not on the court record. On account of this confusion, the petitioners were not able to file the written statement within time.

Learned counsel appearing for the respondent has fairly stated that copy of the written statement had been received by him as pleaded by the petitioner.

In my opinion, there is sufficient cause to allow the petitioners to place on record their written statement. Learned counsel appearing for the petitioner submits that the matter is fixed before the trial court for tomorrow and they would file the written statement tomorrow itself. Subject to payment of costs of Rs.10,000/-, the petitioner is granted liberty to file the written statement by tomorrow.

With the above observations, the present petition stands disposed of.

JAYANT NATH, J

JULY 27, 2016
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