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

+ CM(M) 969/2016

BSSES RAJDHANI POWER LTD Petitioner
Through Mr.Rishab Raj Jain, Adv.

versus

MUMTAZ KHAN Respondent
Through None

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **26.09.2016**

1. An advance copy has been sent to the respondents by courier. None is present on their behalf.
2. By the present petition the petitioner seeks to impugn the order dated 8.6.2016 and 1.8.2016 by which orders the right of the petitioner to file written statement was closed and PW 1 was examined.
3. A perusal of the impugned order dated 8.6.2016 shows that the trial court noted that the defendant was served on 7.12.2015 and more than 30 days or the extended period of 90 days to file the written statement have expired and closed the right of the defendant/petitioner to file written statement.
4. Learned counsel for the petitioner submits that the respondent had filed the suit in the wrong court i.e. before the Additional Sessions Judge, Electricity Court, Dwarka. The said court on 11.5.2016 passed an order holding that the said court is dealing exclusively with cases of electricity theft and the present matter is not for the same. The matter was transferred

to the Court of District & Sessions Judge, (SW), Dwarka Courts, New Delhi who thereafter marked it to the present court i.e. the Court of ADJ-5, Dwarka Courts, New Delhi. The matter was taken up by the present court on 12.5.2016 when time was given to file written statement and the case was adjourned to 8.6.2016. It is urged that on 8.6.2016 the period of 30 days had not expired and there was some delay in filing the written statement as a new counsel was to be engaged who was to prepare the necessary written statement.

5. There is merit in the submission of learned counsel for the petitioner. The written statement could not be filed as the matter was filed before a wrong court.

6. Learned counsel appearing for the petitioner submits that he will file the written statement within 10 days.

7. In view of the above, the petitioner is granted 10 days' time to file the written statement before the trial court. In case written statement is filed before the trial court the same shall be taken on record subject to payment of costs of Rs.5,000/-. Petition stands disposed of. Similarly, opportunity will be granted to cross-examine PW1.

8. A copy of this order be given dasti under signatures of the court master to counsel for the petitioner as prayed.

JAYANT NATH, J

SEPTEMBER 26, 2016

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