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

+ **FAO(OS) 420/2015**

M/S EBIZ COM PVT LTD & ANR

..... Appellants

Represented by: **Mr.Prasenjit Keswani, Advocate**

versus

R K SHRIVASTAVA

..... Respondent

Represented by: **Mr.Vivek Sharma, Advocate**

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

% **22.01.2016**

1. Having heard learned counsel for the parties and having perused the record of the suit we find no infirmity in the impugned order dated May 28, 2015 passed by the learned Single Judge dismissing OA No.225/2015 which was filed with a delay of 1095 days while challenging the order dated May 14, 2012 passed by the learned Joint Registrar closing right of the appellant to file a written statement.
2. Suffice it to record that suit filed by the respondent is for recovery in sum of ₹45, 99, 831/-. Summons were issued in the suit to the appellant on January 27, 2012 returnable for March 19, 2012.
3. The defendants in the suit were two. The appellant and its director.
4. Noting that appellant was served on February 09, 2012 and defendant No.2 on February 16, 2012, notwithstanding 30 days have been expired within which as per law written statement has to be filed, on March 19, 2012 the learned Joint Registrar gave two weeks time for written statement to be filed and adjourned the suit to May 14, 2012. No written statement was

filed even by said date. Right to file written statement was closed. As per the Original Side Rules of this Court the said order was challenged by way of a chamber appeal. Chamber appeal was filed with a delay of 1095 days. It was registered as OA No.225/2015. Along therewith it was prayed that delay of 1095 days be condoned.

5. Entire fault was sought to be put on the shoulders of the counsel.

6. Noting that in the meanwhile plaintiff had commenced recording evidence and its witness was under cross-examination, learned Single Judge has dismissed the chamber appeal.

7. It cannot be lost sight of that the appellant is a company and is expected to ensure that ministerial and administrative functions are performed by professionals.

8. The delay in seeking permission to file the written statement spans over three years.

9. Putting the blame on the shoulder of the counsel is not enough. The proforma of the summons issued by this Court evinces that the appellant was informed in the summons that written statement has to be filed within 30 days of receipt of summons. Officers of corporate body are expected to read the language of the documents received by the company.

10. The appeal is dismissed without any order as to costs.

PRADEEP NANDRAJOG, J.

MUKTA GUPTA, J.

JANUARY 22, 2016

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