

\$~29

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

CM(M) 1226/2015 & C.M. No.30453/2015

M/S MEHRA BOOKS PVT LTD

..... Petitioner

Through Mr.Yashvardhan Singh, Advocate.

versus

M/S VARIETY BOOK DEPOT

..... Respondent

Through Mr.S.K.Kapoor, Advocate.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

%

21.01.2016

Petitioner is aggrieved by the impugned order dated 29.10.2015 vide which his defence has been struck off. His written statement was not taken on record.

Record shows that the petitioner/defendant had been served in the mid of July, 2015. His submission is that complete set of documents had not been furnished to him. On 24.8.2015, the Court had directed the plaintiff to supply complete set of documents to the defendant for facilitating him to file written statement. This order is a part of the Court record. Submission of the learned counsel for the petitioner is that the complete set of documents was supplied to him only on 03.9.2015. This submission is refuted by the learned counsel for the plaintiff who submits that admittedly the complete set of documents had had been supplied in

the July, 2015 itself. This submission of the learned counsel for the plaintiff is belied from the order dated 24.08.2015.

The impugned order was passed on 29.10.2015. On that date presence of clerk of the counsel for the defendant was marked. Written statement was not filed within the time period of 30 days even if it is counted from 03.9.2015 i.e. the date on which the complete set of documents was admittedly supplied to him. Learned counsel for the defendant/petitioner submits that office of the defendant is located at Calcutta he could not get the complete instructions; this was the reason why the written statement was not ready on 29.10.2015. On 29.10.2015 clerk of the counsel for the petitioner had appeared but he was not given a chance to make his submissions; defence of the defendant was struck off.

The present suit is a suit for recovery of Rs.6 lakhs plus interest. A valuable right would be lost to the defendant in case he is not allowed to plead his defence. Plaintiff can be compensated in terms of cost.

Petitioner/defendant is accordingly permitted to file his written statement within one week from today with advance copy to the plaintiff. The written statement shall be taken on record subject payment of costs of Rs.10,000/-.

Petition disposed of.

INDERMEET KAUR, J

JANUARY 21, 2016

ndn