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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 9/2016 & C.M. No.287/2016

M/S JAIN IRRIGATION SYSTEMS LTD

..... Petitioner
Through Mr.Vikas Mehta and Mr. Rajat
Sehgal, Advocates.

versus

RAJEEV GUPTA

..... Respondent
Through Nemo.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **16.02.2016**

There are two orders impugned before this Court. The first order is dated 22.4.2015; second order is dated 21.9.2015. Vide the first impugned order it was noted that written statement was not on record even on 22.4.2015 in spite of service having been effected upon the defendant on 17.01.2015. The second impugned order had disposed of an application filed by the defendant under Order VIII R. 1 CPC. The written statement sought to be taken on record had been declined.

This Court has been informed that the written statement was filed on 23.4.2015 and this finds mention in the application of the defendant under Order VIII R. 1 CPC. It is stated that on 22.4.2015 the bar was on strike as such the counsel could not appear before the

Court to apprise the Court of the proceedings; that is why none had appeared for the defendant on that date.

The present suit is a suit for recovery of Rs.13,70,000/- . A valuable right would be lost to the defendant in case he is not allowed to plead his defence. The impugned order has correctly noted the fact that the extended period of 90 days having elapsed, the defendant has not filed his written statement but keeping in view the submission made by the learned counsel for the defendant which is to the effect that although he had been served firstly on 17.01.2015 but he was not informed of the proceedings up to 17.02.2015 which was the date of second service and which was in his office and he having learnt about the pendency of the proceeding only on 17.02.2015 the written statement filed on 24.3.2015 being within a period of 90 days (to be counted from 17.02.2015), subject to payment of costs of Rs.15,000/- written statement is taken on record.

Petition disposed of.

INDERMEET KAUR, J

FEBRUARY 16, 2016

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