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

+ CM(M) 181/2017 and CMNos. 6026-28/2017

INDIA HABITAT CENTRE Petitioner
Through Mr. Vinay Kumar Garg, Sr. Advocate
with Mr. Rajat Mahtur, Ms. Pryanjali Yadav,
Mr. Duraipayan Banerjee and Ms. Noopur Dubey,
Advocates.

versus

CENTRE FOR DEVELOPMENT STUDIES
AND ACTIVITIES (CDSA) Respondent
Through Ms. Neela Gokhale, Advocate.

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

ORDER
15.02.2017

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1. By the present petition filed under Article 227 of the Constitution of India, the petitioner seeks to challenge the order dated 06.01.2017 whereby an application filed by the petitioner under Order 8 Rule 10 CPC was dismissed.
2. The grievance of the petitioner is that the respondent have entered appearance on 04.04.2016 but have filed their written statement way beyond the prescribed period under Order 8 Rule 1 CPC on 29.07.2016.
3. A perusal of the impugned order would show that the trial court based on its earlier order dated 03.06.2016 concluded that the court itself had granted time to the respondent to file the written statement till 27.07.2016

which direction the respondent have complied with and hence, took the written statement on record.

4. I have heard the learned counsel for the parties.

5. Learned senior counsel for the petitioner submits that in any case, if the trial court was of the opinion that time to file written statement should be granted to the respondent, the trial court was obliged to give reasons as to why the delay in filing of the written statement is being condoned. He relies upon the judgments of the Supreme Court in the cases of *Kailash vs. Nankhu & Ors.*, (2005) 4 SCC 480 and *Aditya Hotels Pvt. Ltd. vs. Bombay Swadeshi Stores Ltd. & Ors.*, (2007) 14 SCC 431. He further stresses that in this case the delay in filing the written statement has been condoned without even an application seeking condonation of delay.

6. Learned counsel for the respondent submits that the written statement was ready to be filed on 03.06.2016 but her court clerk was unable to reach the court on account of certain disturbances. Hence, she submits that her clients cannot be faulted with for non-filing of the written statement on 03.06.2016.

7. The trial court in the present case has relied upon its earlier order dated 03.06.2016 to conclude that the court had itself permitted filing of the written statement on 29.07.2016. Relevant portion of the order reads as follows:-

“None for the parties.

Members of the Bar are abstaining from appearing in the court because of a call for strike issued by the Bar.

WS is awaited

Put up at 11.30 a.m.

At 11.30 a.m.

Present: Sh. Sandeep Kapoor, General Manager of the plaintiff
Company

Put up on 29.07.2016 for filing of W.S.”

8. By the impugned order the trial court has interpreted the above order to imply that time was granted to the respondent to file the written statement on 29.07.2016 and the respondent has complied with the said direction. It accordingly took the written statement on record.

9. In my opinion, the interpretation given to the order dated 03.06.2016 is a plausible interpretation. The said order was not challenged in any court. There are no reasons for this court to interfere in the said order and exercise its jurisdiction under Article 227 of the Constitution of India.

10. In view of the above, the present petition and all pending applications stand dismissed.

JAYANT NATH, J

FEBRUARY 15, 2017
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