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

+ CM(M) 444/2017

DELHI PARK & GARDENS SOCIETY & ORS ..... Petitioners

Through: Mr.D.Rajeshwar Rao and  
Mr.G.Chaturvedi, Advocates.

versus

GO GREEN SOLUTIONS PVT LTD AND ORS ..... Respondents

Through: Mr.Avadh Kaushik, Advocate for  
R-1.

**CORAM:**

**HON'BLE MS. JUSTICE PRATIBHA RANI**

**ORDER**

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**24.04.2017**

CAV No.389/2017

Since learned counsel for the caveator/respondent No.1 has appeared,  
the caveat stands discharged.

CM No.15191/2017 & CM No.15192/2017

1. Exemption allowed, subject to all just exceptions.
2. Applications are disposed of.

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1. The petitioners have filed the instant petition under Section 227 of the Constitution of India impugning the order dated 13<sup>th</sup> February, 2017 passed by learned ADJ-01 (Central) in Civil Suit No.20873/2016 whereby their defence has been struck off on account of non-filing of written statement within 30 days of their service.

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2. Learned counsel for the petitioners has submitted that the Civil Suit No.20873/2016 was initially filed by the respondent No.1/plaintiff before the Court of Civil Judge, Senior Division at Nagpur. However, on the petitioners' taking objection before the Court of Civil Judge, Senior Division at Nagpur questioning the territorial jurisdiction of the Court to try and decide the suit, the matter was transferred to the Courts at Delhi. Learned counsel for the petitioners submits that after the case was transferred to Delhi, reasonable opportunity to file the written statement was not given to the petitioners and vide order dated 13<sup>th</sup> February, 2017 their defence has been struck off by the learned Trial Court.

3. Learned counsel for the respondent No.1 submits that even before the case was transferred to Delhi, the learned 6<sup>th</sup> Jt.Civil Judge, Sr.Dn., Nagpur vide order dated 15<sup>th</sup> June, 2015 has ordered that the suit shall proceed against defendant No.3 without written statement, which fact has not been disclosed by the petitioners in this petition. However, learned counsel for the respondent No.1 submits that he has no objection if an opportunity is granted to the petitioners to file the written statement subject to such terms and conditions as deemed fit by this Court.

4. Considering the facts and circumstances of the case and no-objection given by learned counsel for the respondent No.1, the petitioners are permitted to file written statement before the learned Trial Court, subject to payment of cost of ₹20000/- to learned counsel for the respondent No.1.

5. Learned counsel for the petitioners assures that the written statement is ready and he shall file the same before the learned Trial Court within two weeks with advance copy to learned counsel for respondent No.1 and that the cost shall be paid before the learned Trial Court on the next date of

hearing i.e. 5<sup>th</sup> June, 2017.

6. The petition stands allowed in above terms.

7. It is made clear that the written statement filed by the petitioners within two weeks before the learned Trial Court shall be taken on record only on payment of cost of ₹20,000/- by the petitioners to learned counsel for the respondent no.1 on the next date of hearing fixed before the learned Trial Court i.e. on 5<sup>th</sup> June, 2017.

8. A copy of this order be sent to the concerned Trial Court for information and compliance.

9. As prayed, copy of the order be given dasti to learned counsel for the parties.

CM No.15190/2017

Dismissed as infructuous.

**PRATIBHA RANI, J.**

**APRIL 24, 2017**

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