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

+ CM(M) 538/2017

M/S ARSONS INDIA & ANR

..... Petitioners

Through: Mr. Kushagra Pandit & Mr. Sanat
Tokas, Advs.

Versus

MANOJ KUMAR GARG

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **16.10.2017**

CM No.37054/2017 (of the petitioner for early hearing)

1. This petition under Article 227 of the Constitution of India impugns the order [dated 8th February, 2017 in CS No.522/2016 of the Court of Additional District Judge (ADJ)-03, North-West District, Rohini Courts, Delhi] of closure of right of the petitioner / defendant to file the written statement on the failure of the petitioner / defendant to file written statement within the prescribed time.
2. The petition was entertained and notice of the petition was ordered to be issued; however no stay of proceedings before the trial Court granted. The petition is now posted for hearing on 29th March, 2018.
3. CM No.37054/2017 has been filed, for early hearing and which is listed today, stating that the suit before the trial Court is listed today for hearing of the application filed by the petitioner / defendant under Order VII Rule 10 of the Code of Civil Procedure, 1908 (CPC) and for seeking stay of proceedings before the trial Court.

4. The written statement of the petitioner / defendant has not seen the light of the day till date. Even along with this petition, no written statement has been filed. The counsel for the petitioner / defendant states that since right to file written statement was closed, the written statement has not been prepared till date.
5. To avoid further delays, option has been given to the petitioner / defendant to today pay costs of Rs.50,000/- to the counsel for the respondent / plaintiff before the trial Court and to also file written statement today itself and if the counsel for the respondent / plaintiff accepts the same, the suit can be proceeded with further.
6. The costs have been imposed after noticing that the suit from which this petition arises is for recovery of Rs.25 lacs with interest and the petitioner / defendant, notwithstanding the provisions of CPC and notwithstanding having been served as far back as on 3rd December, 2016, having till date not prepared the written statement.
7. The counsel for the petitioner / defendant is not ready for either and states that preparation of written statement itself will take one week's time.
8. In the aforesaid circumstances, the conduct of the petitioner / defendant does not entitle the petitioner / defendant to any early hearing.
9. CM No.37054/2017 is dismissed.
10. Pendency of this petition to be not a ground for seeking adjournment in or for adjournment of proceedings before the trial Court.
11. Trial Court is requested to proceed with the suit.

12. At this stage, the counsel for the petitioner / defendant states that he will pay costs of Rs.50,000/- and file the written statement tomorrow.
13. The counsel for the petitioner / defendant to inform the trial Court so. The trial Court is requested to list the suit for tomorrow.
14. If the petitioner / defendant tomorrow files written statement and pays costs of Rs.50,000/- to respondent / plaintiff / his advocate tomorrow, the respondent / plaintiff shall have option to accept the same and the written statement shall then be taken on record and the suit shall be proceeded with further.
15. However if respondent / plaintiff is not agreeable to aforesaid, the respondent / plaintiff shall have liberty to approach this Court for revival of this petition.
16. The petition is disposed of in terms of above.
17. The date of 29th March, 2018 is cancelled.
- Dasti* under signature of Court Master.

OCTOBER 16, 2017
'gsr'..

RAJIV SAHAI ENDLAW, J