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

+ CM(M) 186/2017

SOHNA FORGE PVT LTD

..... Petitioner

Through Mr.Hrishikesh Baruah and

Ms.Radhika Gupta, Advocates

versus

Y K SHARMA

..... Respondent

Through None

ORDER

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16.02.2017

CM No.6163/2017

Exemption allowed, subject to all just exceptions.

CM No.6162/2017(delay)

For the reasons stated in the application, the same is allowed and the delay of 15 days in re-filing the present petition is condoned.

CM(M) 186/2017

1. By the present petition under Article 227 of the Constitution of India the petitioner seeks to impugn the order dated 3.6.2015 by which the right of the petitioner to file written statement was closed and order dated 23.8.2016 by which the application filed by the petitioner under Order 8 Rule 1 CPC was dismissed.

2. The respondent has filed the suit for recovery of Rs.1,70,218/-. The petitioners are said to have been served on 27.2.2015, returnable for 4.3.2015. On that date i.e. on 4.3.2015 the Director of the petitioner appeared and sought time to file written statement. The written statement was not filed till the next date, namely, 3.6.2015 and hence on that date the trial court in view of the fact that 90 days' time had expired from the date of

service of notice on the petitioner, closed the opportunity to file written statement and defence of the petitioner was struck off. Thereafter the petitioner filed an application under Order 8 Rule 1 CPC which has also been dismissed on 23.8.2016 on the only ground that the petitioner has not challenged the order dated 3.6.2015 which has attained finality.

3. Respondent has been served but none is present for the respondent.

4. I have heard learned counsel appearing for the petitioner.

5. A perusal of the application filed by the respondent under Order 8 Rule 1 CPC would show that it has been averred that delay in filing written statement took place as the Director who appeared before the court on 4.3.2015 was not aware of the legal provisions and approached the lawyer concerned for at a very later stage. Hence, there was delay in filing the written statement.

6. In the interest of justice, keeping in view the grounds taken by the petitioner the present petition is allowed and the written statement filed by the petitioner is taken on record, subject to payment of Rs.7,500/-.

7. Petition stands disposed of. All pending applications, if any, also stand disposed of accordingly

JAYANT NATH, J

FEBRUARY 16, 2017

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