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

+ CM(M) 163/2018 and CM 5202-5204/2018

M/S JAY ACE TECHNOLOGIES Petitioner

Through: Mr. Karunesh Tandon, Advocate

versus

MADAN LAL NANDA & SONS Respondent

Through

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **09.02.2018**

The petitioner is defendant in the civil suit (CS 128/2015) instituted by the respondent. He claims to have been served with the summons on 21.11.2015. He appeared, as per submission, for the first time in the trial Court on 08.02.2016 but since written statement had not been filed till then the opportunity was closed. He moved an application on 10.02.2016 seeking recall of the said order tendering therewith the written statement. The application thus moved was considered and disposed of on 20.12.2017 whereby the request was declined. It is not understood as to why it took such a long time for the trial Court to consider the said application. The request to place on record the written statement which had been tendered with the application within three months of the date of stated service has been declined with reference to observations of this Court in *CM (M) 813/2017, Leena Devi Vs. Sunil Aggarwal*, decided on 02.08.2017.

It is noted that the trial judge though conscious of the provision contained in Order VIII Rule 1 CPC has not dwelt on the request of the petitioner to extend the time for filing of the written statement within 90 days from the date of service of summons.

The counsel for the petitioner wants to withdraw the present petition and the applications filed therewith and instead seeks liberty to file a review application.

The captioned petition and the applications filed therewith are dismissed as withdrawn with liberty as prayed granted.

Dasti.

R.K.GAUBA, J

FEBRUARY 09, 2018

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