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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CM(M) 1370/2018, CM APPL.46964-46965/2018

DESH RAJ

..... Petitioner

Through: Mr.Priyanshu Upadhyay, Advocate.

versus

BAL KISHAN(DECEASED THRO PROPOSED LRS)

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

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26.11.2018

By this petition the petitioner has impugned the order dated 03.11.2017 whereby an application under Order VIII Rule 1 CPC filed by the petitioner/defendant in Civil Suit No.411/2017 was dismissed and his right to file the written statement was declined on the plea that he had failed to file the written statement within a statutory period of 90 days.

A bare perusal of the record would reveal the defendant was duly served and was supplied with the copy of the plaint and annexures on 15.05.2017 and he took time to file the written statement and lastly on 11.10.2017 his right to file the written statement was closed, after *120 days* of the date of notice. It is alleged the defendant filed the written statement/reply on 02.11.2017 as noted in the order dated 03.11.2017.

Since the defendant failed to file the written statement within

120 days, the learned Trial Court right rejected such application per *Oku Tech Private Limited vs. Sangeet Agarwal and Ors.* In CS(OS) 3390/2015 decided on 11.08.2016 wherein it was held there is no discretion of the Court to extend the time for filing the written statement beyond 120 days after the service of the summons.

In view of the submissions so made the petition stands dismissed. Order *dasti*.

YOGESH KHANNA, J.

NOVEMBER 26, 2018

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