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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 1080/2018 & CM APPL. 36977/2018
M/S DEBONO FLEXCOM (INDIA) LIMITED Petitioner
Through Mr. R.K. Mittal, Mr. Nitin Mittal,
Advs.
versus

M/S WOODPECKERS INDIA PRIVATE LIMITED..... Respondent
Through None.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **15.01.2019**

The respondent has already been served in terms of the order dated 12.09.2018 through its Authorized Representative Mr. M.G. Venkatesh as per the process / report dated 17.09.2018 and none is present on behalf of the respondent.

Submissions have thus been allowed to be made on behalf of the petitioner.

Vide the present petition, the petitioner assails the impugned orders dated 13.07.2018 and 27.07.2018 of the learned ADJ (Central), Pilot Court in CS No. 853/18 in as much as vide order dated 13.07.2018 when a copy of the paper book was handed over to the associate counsel for the petitioner herein, arrayed as the defendant to CS No. 853/18, a period of 10 days was granted for filing the written statement with the matter having been listed for completion of pleadings, documents, admission / denial and framing of

issues on 27.07.2018. Vide the order dated 27.07.2018, the application under Order 47 Rule 1 CPC filed by the defendant i.e. the petitioner herein seeking review of the order dated 13.07.2018 was dismissed, it having been observed to the effect that the right to file the written statement of the defendant i.e. the petitioner herein stood closed.

The Trial Court Record has been received and perused which indicates that the summons of the application issued were served on the defendant i.e. the petitioner herein through affixation on 03.04.2018. It has been observed vide the impugned order to the effect that the appearance had been put forth by a counsel on behalf of the petitioner herein and no submission was made at any stage and that the copy of the paper book had not been received by the defendant i.e. the petitioner herein, who had been served through affixation even on the date 07.05.2018.

On behalf of the petitioner, it has been submitted that placed on the records of the learned Trial Court is the application dated 05.05.2018 filed on behalf of the petitioner seeking to complete the paper book, which application as per the certified copy thereof filed is indicated to have been directed to be placed on the date 18.05.2018. Though, there are no specific orders on the record qua the said application, the proceedings dated 13.07.2018, which is one of the impugned orders herein indicate that the extra paper book was handed over to the associate counsel for the defendant i.e. the petitioner herein to his satisfaction. It has been submitted on behalf of the petitioner that the petitioner could not have been expected to file the written statement as directed vide order dated 13.07.2018 within a period of

10 days as directed vide order dated 13.07.2018 and that the petitioner sought and seeks that the petitioner be directed to file his written statement within the stipulated period of 30 days from the receipt of the complete set of the paper book, which was not possible to submit the written statement.

Taking into account the factum that the record of the learned Trial Court indicates that the complete set of the paper book was supplied on 13.07.2018 and a period of 30 days was sought to submit the written statement, it is considered appropriate and in the interest of justice to set aside the said orders dated 13.07.2018 and 27.07.2018 and since it is submitted on behalf of the petitioner that the proceedings are now listed before the learned Trial Court on the date 18.01.2019 and that the written statement is ready, the written statement of the defendant of the CS No. 853/18 i.e. the petitioner herein is allowed to be submitted by the petitioner before the learned Trial Court on the date 18.01.2019, which is directed to be taken up on record by the learned Trial Court and to proceed further in accordance with law.

The records of the learned Trial Court be sent through the Special Messenger with the direction to the Registry that the same be place on record before the learned Trial Court by 17.01.2019.

Copy of the order be given Dasti, as prayed.

ANU MALHOTRA, J

JANUARY 15, 2019/MK

CM(M) 1080/2018

page 3 of 3