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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 1011/2018 & CM APPL. 35122/2018**
ASHOK KUMAR Petitioner
Through: Mr. MK Bajaj, Adv.

versus

BHAGWAN SINGH Respondent
Through: None.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **08.01.2019**

As per the report dated 13.12.2018, the respondent has been duly served with the notice of the petition through affixation as directed vide order dated 22.11.2018. The petition is thus being heard.

Submissions have been made on behalf of the petitioner by learned counsel present assailing the impugned order dated 10.07.2018 of the ADJ-04, North-West, Rohini in CS No.579289/2016 whereby an application filed under Section 151 of the CPC on behalf of the defendant to the suit i.e. the present petitioner pending before the learned trial Court seeking extension of time and also condonation of delay in filing the written statement, was declined with it having been observed that the defendant i.e. the petitioner herein was not diligent in pursuing the case and had not immediately applied for the certified copy after 12.09.2017 when he made a submission purportedly to the Court that the copy of the plaint

supplied to him was not legible. It is indicated through the impugned order that the petitioner applied for the certified copy after two months of the passing of the order.

A perusal of the certified copy of the application under Section 151 of the CPC filed before the learned trial Court indicates that the applicant applied for the certified copy of the order on 10.11.2017 thereafter stated to have misplaced the receipt of the Copying Agency of the Court and thereafter he could come to know the contents of the order dated 12.09.2017 only after someone read over the order to him and thereafter with great difficulty he could make arrangement for money for paying the fee to the counsel and to file the application.

In reply to a specific Court query it has been submitted by the learned counsel for the petitioner that the evidence in the matter is yet to commence.

Subject to payment of cost of Rs.3,000/- by the petitioner to the respondent before the learned trial Court on 18.01.2019 i.e. the date fixed and subject to filing the written statement on the said date, the impugned order dated 10.07.2018 is set aside with directions to the learned trial Court to proceed further in accordance with law.

The petition is disposed of.

Copy of this order be sent to the learned trial Court.

ANU MALHOTRA, J

JANUARY 08, 2019

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