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

+ CM(M) 546/2017 CM APPL. 18635/2017

PAWAN VERMA

..... Petitioner

Through: Mr. Madhu Sudan Bhayana,
Advocate.

versus

MAHESH KUMAR

..... Respondent

Through: Ms. Deepa Chauhan, proxy counsel
for Mr. Arvind Gupta, Advocate.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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07.03.2019

Vide the present petition, the petitioner assails the impugned order dated 04.03.2017 in Suit no.322/2016 of the learned Trial Court of the Court of the ADJ-03 (N/W) Rohini Courts, Delhi, vide which it was directed that the written statement that had been filed by the defendant would not be read.

Learned counsel for the petitioner submits that the petitioner was served on 07.07.2016 with the summons for settlement of issues whilst he was in judicial custody. It has been submitted on behalf of the petitioner that on 27.07.2016, learned counsel for the petitioner had put in appearance before the learned Trial Court and submitted that the complete set of documents was not supplied to the petitioner herein which were stated to have been supplied on the very next day i.e. on the date 28.07.2016 and that thereafter the written statement was filed on 14.10.2016, with it having been observed vide the

impugned order that there was a delay of 48 days in filing the written statement. It has been observed further vide the impugned order to the effect that the applicant having been released from jail on 08.09.2016, ought to have filed the written statement thus, within the stipulated time frame and having not so done, the written statement that was submitted on 14.10.2016 cannot be read.

On behalf of the respondent, learned counsel for the respondent submits that discretion ought not to be exercised to grant the prayer made by the petitioner that the written statement of the petitioner be read. Taking into account the factum that undoubtedly as indicated vide the impugned order itself, the signatures of the defendant i.e. the petitioner herein on the vakalatnama of the counsel were indicated to have been attested by the Deputy Superintendent of the Rohini Jail, and the factum that the copies of the complete set of documents were supplied to the petitioner on 28.07.2016, in the circumstances, it is considered appropriate to grant permission to the effect that the written statement of the petitioner placed on record of the Trial Court is allowed to be read subject to payment of costs of Rs.20,000/- by the petitioner to the respondent.

The petition is disposed of accordingly.

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

Copy of the order be given Dasti, as prayed.

ANU MALHOTRA, J

MARCH 07, 2019/NC