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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 581/2017 & CM APPL. 20007/2017
E C E INDUSTRIES LTD & ANR Petitioners
Through: Mr. Dil Raj Kumar, Adv.

versus

VIRENDRA KUMAR GUPTA Respondent
Through: Mr. CS Gupta, Adv.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **25.02.2019**

During the course of submissions that have been made on behalf of either side, it is brought forth that the written statement in the instant case was also not filed on behalf of the petitioners to the present petition arrayed as defendants to CS 58313/2016 pending before the Court of the ADJ-02 vide proceedings dated 01.03.2017 vide which an application under Order VII Rule 11 of the CPC that was filed on behalf of the defendant no.2 arrayed as the petitioner no.2 to the present petition, the same having been dismissed, the matter was renotified for admission denial of documents and **framing of issues**. The impugned order indicates that apart from the application that had been filed by the defendant no.2 seeking that his name be deleted from the array of parties, there was an application under Order 7 Rule 11 of the CPC that had been filed by the defendant nos.1 & 2 arrayed as the petitioners to the present petition to the effect that the suit was barred by limitation qua which it has

been observed by the learned trial Court that it would not be appropriate to reject the petition at its threshold and that there were questions involved which were the triable issues which can be determined only after production of the evidence by the parties.

On a perusal of the impugned order, it appears that there is no infirmity in the same. The prayer made by the petitioner seeking setting aside of the impugned order is declined. However, an opportunity is granted to the petitioner to submit the written statement in the instant case within 15 days from today, whereafter, the issues in the matter which apparently have not been framed, be framed by the learned trial Court.

The petition is disposed off accordingly.

All the legal contentions that are sought to be raised by the petitioner may be considered by the learned trial Court.

Nothing stated hereinabove shall amount to any expression on the merits or demerits of the case.

ANU MALHOTRA, J

FEBRUARY 25, 2019

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