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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 1595/2018 & CM APPL. 54375/2018
M/S EICHER MOTORS LTD Petitioner
Through Ms. Diva Arora, Mr. Mudit Tayal,
Advs.
versus

LAXMAN PRASAD SHARMA & ORS Respondent
Through None.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA
ORDER
% **14.02.2019**

Though the process was sent through speed post, however, there are two variant versions.

The report on the process sent through speed post reported to have not been served on 17.01.2019 as shows that the door was locked at the address at B-409, Mayur Pankh, Navghar Road, Bhayandra (E), Thane-401105. The affidavit of the service filed on behalf of the petitioner with the copy of the speed post, courier receipt and tracking report that has been filed on behalf of the petitioner, however, shows service having been effected on 18.01.2019 on the respondent no. 1 at the same address and the respondent no. 1 is thus held to have been served in as much as the previous process report is of the date 17.01.2019. The respondents no. 3 to 7, arrayed on record are stated to be proforma parties.

The petitioner assails the impugned order dated 04.12.2018 of the Trial Court of the learned ADJ-01 (South), New Delhi in CS No. 1000/17

vide which the written statement of the defendant no. 4 i.e. the petitioner herein arrayed to the said suit was directed to be taken off the record in as much as the defendant no. 4 having been served on 19.02.2018, had filed the written statement with a delay of 102 days.

It has been submitted on behalf of the petitioner to the effect that the time taken to file the written statement was for collection of the record as was also submitted on 04.12.2018 before the learned Trial Court.

The impugned order reflects to the effect that time was granted to the defendant no. 4 i.e. the petitioner herein vide order dated 06.03.2018, 10.07.2018 and 21.09.2018, which apparently appears to be 22.09.2018 as per Annexure-P5 placed on record.

Vide proceedings dated 22.09.2018, it was observed by the learned Trial Court to the effect that the defendant no. 4 can file its written statement on its own risk. The written statement is stated to have been filed on 16.10.2018. The petitioner herein has submitted that it took sometime to pull out the record in relation to the equity share qua which the suit has been filed by the plaintiff. The copy of the plaint that has been annexed with the petition herein indicates that it is a suit for declaration and mandatory injunction that the plaintiff i.e. the respondent no. 1 had filed in relation to equity shares of the defendant no. 4 i.e. the petitioner herein seeking that he be declared the sole and absolute owner of the said equity share and that it be transferred into his name alongwith the share certificate.

Taking the said aspect into account as apparently the presence of the defendant no. 4 qua the submissions in relation to the equity shares would effect the rights of others as arrayed as the respondent to the suit, in the interest of justice, the written statement of the defendant no. 4 i.e. the

petitioner herein is allowed to be taken on record by the learned Trial Court subject to costs of Rs.30,000/- to be paid by the petitioner to the respondent no. 1.

The petition is disposed of accordingly.

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

ANU MALHOTRA, J

FEBRUARY 14, 2019/MK