

\$~8

\*

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

+

**CM(M) 51/2020 and CM APPL. 2328/2020**

**AKHIL SARAF , DIRECTOR M/S SHIV SHAKTI TRADERS PVT LTD**

..... Petitioner

Through: Mr. Manoj Kr. Garg and Mr. Kundan  
Kr. Roy, Advocates (M:  
9811080423).

versus

**MONIA ASMLI LOOND**

..... Respondent

Through: Mr. Muneesh Malhotra and Mr.  
Vanya Khanna, Advocates (M:  
9919917666).

**CORAM:**

**JUSTICE PRATHIBA M. SINGH**

**ORDER**

%

**28.01.2020**

The Petitioner/Plaintiff (*hereinafter, "Plaintiff"*) has impugned the order dated 13<sup>th</sup> September, 2019 primarily on the ground that the delay in filing of the written statement was condoned without any specific application being filed, and only on an oral application. A perusal of the impugned order shows that the counsel appearing for the Plaintiff on the said date before the Id. Trial Court himself made a submission that he had no objection if the delay was condoned subject to costs. After recording his submission, the Court has imposed costs of Rs. 1,000/- and has taken the written statement on record. The order reads as under:-

*"Written statement filed along with documents and reply to the interim application under Order 39 Rule 1 and 2 CPC. Counsel for the defendant makes an oral application for condonation of delay in filing the written statement. Counsel appearing for the plaintiff submits that he has no objection if the delay is*

*condoned subject to cost for the delay caused.*

*Heard. Considering that the written statement has been filed within the period of 90 days, although beyond period of 30 days, the condonation application is liberally considered, In the interest of natural justice, the delay is accordingly condoned, subject to cost of Rs. 1000/-. Be paid on the next date of hearing.*

*Rejoinder be filed. Affidavit of admission/denial, if any, be filed by both the parties.*

*To come up for interim arguments and framing of issues on 05.11.2019.”*

Considering that there was no written application seeking condonation of delay and the Plaintiff's counsel himself made a submission that he has no objection, the impugned order is not interfered with to the extent that the written statement has been taken on record, however, the costs are increased to Rs. 5,000/-, to be paid to the Plaintiff's counsel on or before the next date in the Trial court. It is submitted by Mr. Muneesh Malhotra, ld. counsel that Plaintiff has also moved an application seeking review of order dated 13<sup>th</sup> September, 2019. The said review application shall also be withdrawn by the Plaintiff, in view of this order.

The petition with all pending applications is disposed of.

**PRATHIBA M. SINGH, J.**

**JANUARY 28, 2020**

**MR**