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

+ **CM(M) 775/2019 & CM APPL. 23688/2019**

S. ISHPAL SINGH

..... Petitioner

Through: Mr. Gaurav Bhatt, Advocate (M-9210478656)

versus

SUNIL KUMAR TANDON

..... Respondent

Through: Mr. Deepak Vohra, Advocate (M-9810538000)

AND

+ **CM(M) 1601/2019 & CM APPLs. 48480/2019, 48481/2019**

ISHPAL SINGH

..... Petitioner

Through: Mr. Gaurav Bhatt, Advocate

versus

SUNIL KUMAR TANDON

..... Respondent

Through: Mr. Deepak Vohra, Advocate

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **06.01.2020**

1. In CM(M) 775/2019, the order on the leave to defend is challenged on the ground that an unreasonable condition has been imposed by following the judgment in *Mechelec Engineers & Manufacturing v. Basic Equipment Corporation, 1976 (4) SCC 687* which stands overruled in *IDBI Trusteeship Services Limited v. Hubtown Limited, 2017 (1) SCC 568*.
2. In CM(M) 1601/2019, the right to file the written statement has been

closed as the same has not been filed despite opportunities being available, post the decision in the leave to defend application.

3. Ld. Counsel for the Petitioner submits that the condition imposed for grant of leave to defend was challenged before this court and hence the Defendant did not file the written statement.

4. The non-filing of written statement after the order on the leave to defend application, though under challenge here, would not permit the Defendant to continue to delay the filing of the written statement, especially when there was no stay of the impugned order.

5. After some hearing, ld. counsel appearing for the Petitioner/Defendant submits that his client is willing to comply with the condition of deposit of Rs.1 lakh within four weeks.

6. Accordingly, it is directed that subject to the said condition of Rs.1 lakh being deposited within four weeks, the written statement shall be filed before the Trial Court on or before 15th February, 2020. The amount of Rs.1 lakh to be deposited in the Trial Court shall be kept in an interest-bearing fixed deposit on auto renewal mode and shall abide by the final decision in the suit. If the amount of Rs.1 lakh is not deposited within four weeks, the right to file the written statement shall stand automatically closed.

7. Both the petitions are disposed of in these terms. All pending applications are also disposed of.

Prathiba

PRATHIBA M. SINGH, J

JANUARY 06, 2020

Rahul ✓