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

+ **CM (M) 987/2019 & CM APPL. 29416/2019 (stay)**

RAJESH KUMAR

..... Petitioner

Through: Mr. Anil Sehgal and Mr. Shivansho
Chadha, Advocates. (M:9810078406)

versus

GEETA DEVI

..... Respondent

Through: Mr. H. S. Dhawan, Advocate.
(M:9811069244)

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **10.02.2020**

1. The present petition has been filed challenging the impugned orders dated 20th November, 2018 and 19th February, 2019. Vide order dated 20th November, 2018, the defence of the Petitioner/Defendant (*hereinafter*, “*Defendant*”) was struck off and on 19th February 2019, the Defendant’s application for review of the said order was dismissed.
2. Ld. counsel for the Defendant submits that the Defendant had met with an accident and, therefore, there was some delay in making payments in terms of the order dated 7th December, 2016.
3. Ld. counsel for the Respondent/Plaintiff (*hereinafter*, “*Plaintiff*”), on the other hand, submits that benefit was given to the Defendant but there has been complete non-compliance of the order dated 7th December, 2016 and hence, no further indulgence is required to be given.
4. This Court, vide order dated 8th July, 2019, had issued notice and directed the Defendant to make the outstanding payments as per the order

dated 7th December, 2016. The said order reads as under:

- “1. The petitioner has approached this Court against an order of the Trial Court dated 20.11.2018, by which his defence to the eviction petition has been struck off.*
- 2. The impugned order was passed in view of the fact that the petitioner had not made payment of the amount of Rs. 3,000/- per month, which was the admitted rent, as directed by the order of the Trial Court dated 07.12.2016.*
- 3. Learned counsel for the petitioner submits that the amount was unpaid in view of the fact that the electricity connection to the premises had not been restored and due to the fact that the petitioner had suffered an accident. He points out that a partial payment of Rs.20,000/- was made by the petitioner by a money order in January, 2018, which was refused. Learned counsel submits that the impugned order of the Trial Court is unduly harsh in the facts and circumstance of this case and submits that the petitioner is ready to deposit the entire dues at the rate of Rs. 3,000/- per month from December, 2016 till today. The learned counsel for the petitioner also submits that he may be put to terms of the relief sought in this petition.*
- 4. Issue notice in this petition, dasti in addition, returnable on 23.09.2019.*
- 5. The petitioner is directed to make the entire outstanding payment to the respondent on the next date before the Trial Court which may be accepted by the respondent without prejudice to its rights and contentions in this petition.*
- 6. It is made clear that proceedings before the Trial Court, which are said to be at the stage of plaintiff's evidence, have not been stayed and the petitioner/defendant shall continue with the cross-examination. Without prejudice to the rights and contentions of the parties, the cross-examination shall be permitted on aspects raised in the defence of the*

petitioner/defendant, as well. These interim orders are passed subject to the outcome of these proceedings.”

5. It is now admitted by the counsel that pursuant to the said order dated 8th July, 2019, the Defendant had made all the payments and the trial court proceedings are continuing.

6. Accordingly, binding the Defendant to the undertaking that he would make payment at the rate of rent of Rs.3,000/- per month by the 10th of every month, the present petition is disposed of. All pending applications are also disposed of. The Trial Court shall endeavour to conclude the matter expeditiously. If there is any default on the part of the Defendant, then the consequences in law would follow against the Defendant.

PRATHIBA M. SINGH, J.

FEBRUARY 10, 2020/dk