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

+ **CM (M) 1219/2019 & CM APPL. 52527/2019**

M/S I 2 DISTRIBUTION

..... Petitioner

Through: Ms. Madhv Smita Bora, Mr. Csk
Satish and Mr. Bijoy Kumar Pradhan,
Advocates. (M:9810353267)

versus

IFFCO TOKIO GENERAL INSURANCE COMPANY LTD (ITGI)
& ANR

..... Respondents

Through: Mr. Prantar Bashu Choudhury,
Advocate for R-1.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

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05.02.2020

1. On the last date, the Court had initially dictated the order and thereafter mention was made and adjournment was sought. The order was thereafter recalled and the matter was listed for hearing today. Ld. Counsels for the parties have made their submissions today. After hearing counsels for the parties, the petition is disposed of with the following order:
2. The present petition challenges the impugned order dated 30th May, 2019 by which the written statement of the Petitioner/Defendant has been taken off the record. The suit is one for recovery of a sum of Rs. 42,91,084/-. The summons in the suit were served on the Defendant on 11th December, 2018 and the written statement was, filed on 30th May 2019. A perusal of the trial court record which was summoned shows that the suit was not filed under the Commercial Courts Act, 2015. It was not registered as a commercial suit. Summons were not issued treating the suit as a commercial

suit. Thus, to treat the same as a commercial suit with a mandatory time-line of 120 days may do injustice to the party. Defendant no.2 had filed its written statement on 13th march 2019 and the Defendant no.1 had filed the written statement on 30th May 2019.

3. A perusal of the order dated 30th January 2019 shows that 30 days' time was given by the Court to file the written statement and the next date in the matter was 30th May 2019. Thus, the Defendant may have been under the impression that the time period for filing the written statement itself commences on 30th January 2019. Taken from this date, the written statement was tendered on the 120th day i.e., 30th May 2019.

4. Considering the substantive sum, of which recovery is being sought and the fact that the suit was not treated as a commercial suit, the delay in filing the written statement is condoned subject to payment of Rs. 10,000/- as costs. Let the costs be paid to the Plaintiff on or before the next date before the Id. Trial Court. The written statement be taken on record and the suit shall proceed further in accordance with law.

5. The petition along with the pending applications is disposed of.

PRATHIBA M. SINGH, J.

FEBRUARY 05, 2020

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