



\$~57 (Appellate Side)

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

+ **CM(M) 763/2022 & CM APPL. 33855/2022**

**M/S. HICINKO PVT. LTD & ORS.** ..... Petitioners

Through: Mr. Sohil Sharma, Adv.

versus

**ROSHAN SHIMAL** ..... Respondent

Through: Mr. Dhananjai Jain, Mr. Naveen  
Rai and Mr. Abhinav Bansal, Adv.

**CORAM:**

**HON'BLE MR. JUSTICE C. HARI SHANKAR**

**ORDER(ORAL)**

% **02.08.2022**

1. The impugned order, dated 22<sup>nd</sup> January 2021 passed by the learned Additional District Judge (“the learned ADJ”) in CS 572/2019 (*Roshan Shimal v. M/s Hicinko Pv. Ltd & Ors*), closes the right of the petitioners, as the defendants before the learned ADJ, to file written statement.

2. The list of dates filed with the petition discloses that the summons were issued in the suit on 3<sup>rd</sup> October 2019, whereafter opportunity was granted to the petitioners to file written statement on 10<sup>th</sup> December 2019 and 4<sup>th</sup> September 2020. It was only when no written statement was forthcoming despite nearly a year and a half having passed since issuance of summons that, by order dated 22<sup>nd</sup> January 2021, the learned ADJ closed the right to file written statement.

3. No fault can be found with the learned ADJ in taking such a decision. Ordinarily, no case for interference with such an order under



Article 227 of the Constitution of India would be made out.

4. However, learned Counsel for the respondent has fairly agreed to have the written statement placed on record subject to terms.

5. In view thereof and keeping in mind the right of every party to be entitled to prosecute his case in accordance with law, this Court permits the written statement, stated to have been filed by the petitioners after his right was closed by the order dated 22<sup>nd</sup> January 2021, to be taken on record, subject to payment of costs of Rs 15,000/-, to be paid to the respondent by way of a crossed cheque/demand draft within a week from today. Proof of payment of costs would also be furnished before the learned Trial Court. Failure to pay costs, as afore-directed, shall result in revitalization of the impugned order and closure of the petitioners' right to file written statement.

6. The petition is, accordingly, disposed of in the aforesaid terms with no order as to costs.

7. Learned Trial Court is requested to proceed with the suit as expeditiously as possible.

8. Miscellaneous application is also disposed of.

**C. HARI SHANKAR, J**

**AUGUST 2, 2022/r.bararia**