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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 1201/2022 & CM APPL. 48053/2022, CM APPL. 48054/2022

INDERPREET SINGH Petitioner
Through: Mr. S.B. Singh, Adv.

versus

CHANDEEP SINGH Respondent
Through: None

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR

ORDER (ORAL)
10.11.2022

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1. By the impugned order dated 31st August 2022, passed in CS (Comm) 32/2021 (*Chandeep Singh v. Inderpreet Singh*), the learned District Judge (Commercial Court) ("the learned Commercial Court") has directed removal, from the record of the suit, of the written statement filed by the petitioner as the defendant in the suit, as having been filed beyond 120 days from the date when summons in the suit were served on the petitioner.

2. The learned Commercial Court has observed that as the suit was a commercial suit, there was no scope of a relaxation of the time for filing written statement beyond the aforesaid period of 120 days. In this regard, the learned Commercial Court has relied on the judgment of the Supreme Court in *SCG Contracts (India) (P) Ltd. v. K.S. Chamankar Infrastructure (P) Ltd.*¹.

¹ (2019) 12 SCC 210

3. The impugned order observes that service of summons in the suit were effected on the petitioner by email dated 16th February 2022.

4. Mr. Singh, learned Counsel for the petitioner, submits that the said email was actually received by the petitioner on 19th February 2022 but that it had only contained the application without any annexure. In ground (a) of the present petition, the petitioner has pointed out, in this regard, that the subject of the said e-mail was itself titled “court notice without copies of plaint”. He submits that no annexures to the plaint were received by the petitioner with the said email. He further submits that, though the email which was sent by the counsel for the respondent to the court on 15th February 2022 and was forwarded to the petitioner by the court on 16th February 2022 was titled “scanned copy of complete case”, it did not contain the annexures to the plaint. The petition further asserts that the suit has recorded the correct postal address of the petitioner, as the defendant in the suit. In these circumstances, it is sought to be contended in the petition that the findings in the impugned order dated 31st August 2022 to the effect that the scanned copy of the complete case file which was emailed to the petitioner on 16th February 2022, was incorrect.

5. Mr. Singh also submits that he had, in fact filed an application under Section 151 of the CPC on 8th March 2022, pointing out the fact that he had not been served a complete copy of the plaint with annexures. He points out that the said application was pending when the impugned order was passed on 31st August 2022.

6. Appreciation of the stand adopted by Mr Singh would require an examination of the facts relating to service of summons, which cannot be done by this Court in exercise of jurisdiction under Article 227 of the Constitution of India. In case the assertions in the petition are correct, it would make out a case for the petitioner to seek a review of the impugned order dated 31st August 2022.

7. As such, reserving liberty with the petitioner to move an application seeking review of the impugned order dated 31st August 2022, the present petition is disposed of.

8. The learned Commercial Court is also requested to take a view on the petitioner's application under Section 151 of the CPC, referred to in para 5 *supra*.

9. It is made clear that this Court has not expressed any view on the correctness of the petitioner's submission regarding service of summons. It would be for the learned Commercial Court to examine the record and satisfy itself in that regard.

10. Needless to say, if the petitioner continues to remain aggrieved, the petitioner's remedies in that regard would stand reserved.

11. This petition is accordingly disposed of *in limine* with no order as to costs.

C. HARI SHANKAR, J.

NOVEMBER 10, 2022

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