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

Date of decision: 18.12.2023

+ CM(M) 106/2023 & CM APPL. 3571/2023

NAVEEN SACHDEVA

..... Petitioner

Through: Mr. Rajal Rai Dua and Mr. Rohan
Sharma, Advocates (through VC)

versus

UMESH SEHGAL

..... Respondent

Through: Mr. Pulkit Aggarwal, Advocate

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CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMEET PRITAM SINGH ARORA, J (ORAL):

1. This petition filed under Article 227 of the Constitution of India impugns the order dated 14.12.2022 passed by ADJ, North West District, Rohini Courts, New Delhi ('Trial Court'), in CS (DJ) 385/2022, titled **Umesh Sehgal v. Naveen Sachdeva & Anr.**, dismissing an application filed by the Petitioner under Order VIII Rule 1, of Code of Civil Procedure, 1908 ('CPC') for condonation of delay in filing the written statement.

1.1. The Petitioner is defendant no.1. Respondent No.1 is the plaintiff and Respondent No.2 is defendant no.2 before the Trial Court.

1.2. The suit has been filed for recovery of a sum of Rs. 24,65,500/- along with interest on 06.05.2022.

2. The learned counsel for the Petitioner admits that the summons in the



suit were duly received by defendant no.1 on 24.05.2022.

2.1 He states that the written statement was filed on 27.08.2022 after a delay of 63 days beyond the initial period of thirty (30) days.

2.2 He states on instructions that the defendant no. 1 is willing to deposit the sum of Rs. 5,26,500/- which is the liability admitted in the written statement as per the table set out at paragraph '7'; along with interest at 24%, which became due and payable on 08.03.2019. He states that as per the stand of defendant no.1 this admitted amount (along with the interest) is payable equally to plaintiff and defendant no.2.

2.3 He states that in addition, he will also pay legal costs to the plaintiff for the delay in filing the written statement.

3. In reply, learned counsel for Respondent No.1 i.e., the plaintiff states that there is no infirmity in the order of the Trial Court and in fact, the defendant no.1 has failed to follow the procedural requirement of seeking setting aside of the order dated 20.09.2022.

3.1. He states that, however, without prejudice to his rights and contentions, the written statement of defendant no. 1 be permitted to be taken on record subject to the Petitioner making good the deposit of the admitted amount and paying reasonable legal costs to the Respondent No.1.

3.2. He further requests this Court to put Petitioner to strict terms with respect to his future participation in the trial.

4. This Court has considered the submissions of the parties.

5. In view of the law settled by the Supreme Court in ***Kailash v. Nankhu & Ors., (2005) 4 SCC 480***, and considering the fact that this is an ordinary civil suit, the following directions are being issued with the consent of the parties:-



- i. The Petitioner i.e., defendant no. 1 will deposit the admitted amount of Rs. 5,26,500/- along with interest at 24% of the month with effect from 08.03.2019 in two (2) equal instalments payable on 18.01.2024 and 18.02.2024.
 - ii. The defendant no. 1 will pay legal costs of Rs. 20,000/- to the Respondent No.1 on or before 18.01.2024.
 - iii. Subject to defendant no. 1 making payment of admitted amount in two (2) instalments and payment of legal costs, the written statement dated 20.09.2022, shall be taken on record.
 - iv. The defendant no. 1 will also file his affidavit of admission/denial of documents filed with the plaint on or before 18.01.2024.
6. It is made clear that if the Petitioner fails to comply with the directions issued hereinabove within the timelines granted by this Court, the order dated 20.09.2022 and 14.12.2022 shall operate and bind the parties.
7. Upon deposit of the instalment on 18.01.2024, the learned Trial Court is requested to release the said amount to the Respondent No.1. The release of the second instalment which is to be deposited by the Petitioner on 18.02.2024 shall be decided by the Trial Court after hearing defendant no.2 i.e., Respondent No.2, if there is appearance on her behalf.
8. With the aforesaid directions, the present petition is disposed of. Pending applications stand disposed of.

MANMEET PRITAM SINGH ARORA, J

DECEMBER 18, 2023/msh/sk

Click here to check corrigendum, if any

Signature Not Verified

Digitally Signed
By: MAHIMA SHARMA
Signing Date: 23.12.2023
19:13:40

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