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

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Judgment delivered on: 08.02.2023

+ CM(M) 195/2023

RAGHAV SACHDEVA

..... Petitioner

Versus:

GAURAV CHAWLA

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. P.D. Gupta, Sr. Advocate with Ms. Vidhi Goel, Ms. Tejaswtia and Mr. Krishna Dev Yadav, Advocates.

For the Respondent : Ms. Vidhi Gupta and Mr. Vipul Gupta, Advocates.

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

TUSHAR RAO GEDELA, J. (ORAL)

[The proceeding has been conducted through Hybrid mode]

With the consent of both the parties, the petition is taken up for disposal.

CM APPL. 6058/2023 (for exemption)

1. This is an application seeking exemption from filing certified copies of the documents.
2. Exemption is allowed, subject to all just exceptions.
3. The application stands disposed of.

CM(M) 195/2023 & CM APP No. 6057/2023

4. The petitioner challenges the order dated 25.11.2022 passed by the learned Trial Court in CS DJ No. 109/2022 titled '**Gaurav Chawla vs. Raghav Sachdeva**' whereby the written statement which was already filed by the petitioner/defendant was directed not to be taken on record and simultaneously the defence of the petitioner/defendant was struck off.

5. Mr. P.D. Gupta, learned senior counsel appearing for the petitioner submits that there are catena of judgments of this Court as well as the Hon'ble Supreme Court permitting written statements to be filed on behalf of defendants even beyond the stipulated period of 120 days.

6. Learned senior counsel also submits that the learned Trial Court passed the impugned order purely on the basis that no application seeking condonation of delay was filed alongwith the written statement.

7. Learned senior counsel also submits that by way of the impugned order, the application under Order VIII Rule 10 of the CPC, 1908 filed by the respondent/plaintiff was simultaneously allowed resulting in the defence of the petitioner/defendant being struck off.

8. Ms. Vidhi Gupta, learned counsel appearing for the respondent/plaintiff makes submissions in support of the impugned order and submits that the impugned order is procedurally unimpeachable for the reason that factually there was no application filed alongwith the written statement seeking condonation of delay in filing the written statement.

9. Learned senior counsel relied upon the judgment of the Hon'ble Supreme Court in '**Bharat Kalra vs. Raj Kishan Chhabra**' Civil Appeal

No. 3788/2022 rendered on 09.05.2022 to submit that the Hon'ble Supreme Court had in *Bharat Kalra* (supra), reiterated the view taken by the Supreme Court in "*Kailash vs. Nankhu and Ors.*" reported in (2005) 4 SCC 480 and directed that a lenient view for completion of pleadings, insofar as written statement is concerned, ought to be taken into consideration by the Trial Courts.

10. The cryptic rejection of the written statement merely for the lack of an application for condonation of delay is unsustainable in these circumstances.

11. The learned Trial Court could have compensated the respondent/plaintiff suitably and proceeded to examine the matter on merits. It is trite that procedures are handmaid to justice.

12. In view of the above, the impugned order is quashed and set aside, however, subject to the payment of Rs.25,000/- as cost to be paid by the petitioner/defendant to the respondent/plaintiff within a week from today under a proper receipt.

13. It is informed that the next of hearing before learned Trial Court is 13.03.2023.

14. The learned Trial Court is directed to take on record, the written statement, stated to have already been filed and necessary directions for completion of pleadings may be passed and the matter proceed in accordance with law.

15. With the aforesaid directions, the petition and pending application stand disposed of.

TUSHAR RAO GEDELA, J.

FEBRUARY 08, 2023

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