



\$~5

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 29.11.2023

+ CM(M) 1020/2023

MS. BEENA GUPTA

..... Petitioner

Through: Mr. Bipin Kumar and Mr.
 Vivekanand Mishra, Advocates

versus

MR. S.VIPIN SINGH CHADHA

..... Respondent

Through: Mr. Avtar Singh and Ms. Ayushi
 Agarwal, Advocates

%

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 03.04.2023 passed by the District Judge Commercial 01, Central, Tis Hazari Court Delhi in CS (Comm.) No. 1012 of 2022, titled as **Mr. S. Vipin Singh Chadha v. Ms. Beena Gupta** ('Trial Court') whereby the Trial Court dismissed the application filed by the Petitioner under Section 5 of Limitation Act read with Order 41 Rule 3(a) and Order 8 Rule 1 read with Section 151 Civil Procedure Code, 1908 ('CPC') seeking condonation of delay in filing the written statement.

1.1. The Petitioner is the original defendant and the Respondent is the original plaintiff before the Trial Court.



1.2. The commercial suit has been filed by the Respondent seeking a recovery of Rs. 17,24,603/- against the Petitioner herein.

2. Learned counsel for the Petitioner states that the delay caused in filing the written statement be condoned, subject to payment of legal costs of Rs. 25,000/- payable to the Respondent for the delay caused in the proceedings before the Trial Court.

3. In reply, learned counsel for the Respondent states that he has no objection if the Petitioner's written statement is taken on record, subject to Petitioner herein being imposed to strict terms with respect to her future participation in the trial so as to ensure that there is no further delay in the proceedings pending before the Trial Court

4. He states that the replication to the written statement already stands filed.

5. This Court has considered the submissions of the parties and perused the record.

6. As per the record, the defendant was served on 06.08.2022 and she filed her written statement on 05.12.2022. However, having regard to the fact 04.12.2022 was a Sunday, therefore, the filing of the written statement on 05.12.2022, would make the written statement being filed within the statutory period of 120 days.

7. Further in view of the aforesaid statement of the Respondent as well, the application of the defendant seeking condonation of delay in filing the written statement is allowed and the order dated 03.04.2023 is set aside with the consent of the parties on the followings terms:-

a. The aforesaid opportunity is being granted to the Petitioner subject to the payment of legal costs of Rs. 25,000/- to the plaintiff on or before



06.12.2023.

- b. The Petitioner will file her affidavit of admission/denial of documents filed with the plaint on or before 06.12.2023.
- c. Subject to receipt of cost payable by the Petitioner and the aforesaid affidavit, the Respondent i.e., the plaintiff will file his affidavit of admission/denial of documents filed with the written statement on or before 13.12.2023.
- d. Subject to the Petitioner complying with the aforesaid directions within the time granted by this Court, the written statement and affidavit of admission/denial of documents of the defendant will be taken on record.
- e. It is made clear that if the Petitioner fails to comply with the aforesaid directions, the liberty granted by this Court shall stand revoked and no further opportunity will be granted to the Petitioner. In such case the order dated 03.04.2023 passed by the Trial Court shall come into operation.
- 8. It is directed that the Petitioner will not seek any unnecessary adjournment before the Trial Court and will be duly represented through a counsel on each date of hearing to co-operate in the expeditious disposal of the trial. In case, the Petitioner/defendant defaults the learned Trial Court is requested to exercise its jurisdiction under Order XVII CPC.
- 9. With the aforesaid directions, the present petition is allowed in the aforesaid terms.
- 10. Pending Applications, if any, shall stand disposed of.

MANMEET PRITAM SINGH ARORA, J
NOVEMBER 29, 2023/rhc/ms



Click here to check corrigendum, if any

Signature Not Verified

Digitally Signed
By: RASHMI DABAS
Signing Date: 02.12.2023
23:34:29