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

Date of decision: 12.12.2023

+ CM(M) 1928/2023, CM APPL. 60269/2023 & CM APPL. 64148/2023

M/S RANA TRAVELS PVT. LTD.

..... Petitioner

Through: Mr. Kanwar Abhay Singh and Mr. Garvit, Advocates

versus

COL. K. S. AHLUWALIA

..... Respondent

Through: Mr. Atul Jain, 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 21.10.2023 passed by District Judge (COMM), North District, Rohini Courts, Delhi ('Trial Court') in CS (COMM) No. 389/2023, titled as **Col. K.S. Ahluwalia v. Rana Travels Pvt. Ltd.**, dismissing an application filed by the defendant seeking condonation of delay in filing the written statement.

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

1.2. The Respondent herein filed a suit for recovery of Rs. 12,03,964/- alleging that the Petitioner made a purchase of diesel for its buses and



trucks. In the plaint it was stated that from 20.12.2016 to 24.12.2018 diesel worth of Rs. 16,53,964/- was purchased against the invoice and a part payment of Rs. 4,92,623/- was made by the Petitioner herein.

1.3. The summons of the present suit was served upon the Petitioner on 28.07.2023. The written statement was filed along with an application under Order VIII Rule 1 of CPC for condonation of delay in filing the written statement.

1.4. The Trial Court vide the impugned order dated 21.10.2023 dismissed the said application of the Petitioner and struck off the defence of the Petitioner.

2. The learned counsel for the Petitioner has filed CM APPL 64148/2023 setting out the grounds on which the condonation of delay is sought.

2.1 It is stated that there were certain missing documents which were provided by the Respondent on 18.10.2023.

2.2 He states that the written statement has been filed within the statutory period of 120 days and the Petitioner herein is willing to compensate the Respondent with the legal costs of Rs, 35,000/-.

3. In reply, learned counsel for the Respondent states that in view of the fact that all the documents between the parties were already available with the defendant, there was no ground for the delay.

3.1 He, however, consents that subject to the Petitioner being put to strict terms he may be given a last opportunity to file his written statement.

4. With the consent of the parties, the following directions are passed:

- i. The Petitioner will file his affidavit of admission/denial of documents filed with the plaint on or before 19.12.2023. The



Petitioner will pay costs of Rs. 35,000/- by demand draft on or before 19.12.2023.

ii. Subject to the Petitioner filing his affidavit of admission/denial of documents and payment of costs, the Respondent herein will file his replication along with affidavit of admission/denial of documents filed with the written statement within four (4) weeks thereafter.

5. It is directed that subject to the Petitioner complying with the aforesaid condition Nos. (i) and (ii) on or before 19.12.2023 the order dated 21.10.2023 shall stand superseded. However, if the Petitioner fails to comply with the aforesaid directions, the order dated 21.10.2023 shall operate and bind the parties.

6. The Petitioner undertakes to this Court that he will remain duly represented before the Trial Court on each date of hearing through his counsel and not seek any adjournment. The Petitioner's statement is taken on record and in case he seeks any unnecessary adjournment, the learned Trial Court is requested to exercise its jurisdiction under Order 17 CPC.

7. With the aforesaid directions, the present petition stands disposed of. Pending applications are disposed of.

MANMEET PRITAM SINGH ARORA, J

DECEMBER 12, 2023/msh/sk

Click here to check corrigendum, if any