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

% Judgment delivered on: 11.01.2023

+ CM(M) 1522/2018 and CM 52071/2018 and 53329/2022
MUNICIPAL CORPORATION OF DELHI
& ORS Petitioners

versus

DR SHAMBHUJI & ORS Respondents

+ CM(M) 1529/2018 and CM Nos.52241/2018 and 53538/2022
MUNICIPAL CORPORATION OF DELHI
& ORS Petitioners

versus

DR SHAMBHUJI & ORS Respondents

Advocates who appeared in this case:

For the Petitioner : Ms. Madhu Tewatia and Mr. Adhirath Singh,
Advocates

For the Respondent : Respondent No.1 in person

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

TUSHAR RAO GEDELA, J. (ORAL)

[The proceeding has been conducted through Hybrid mode]

1. With the consent of parties, present petition is taken up for disposal today.

2. Petitioner challenges the order dated 13.11.2018 of the learned Trial Court whereby the written statements filed by Petitioner Nos.1 to 4 who are Defendant Nos.1 to 3 and 6 (before the learned Trial Court) in CM (M) No.1522/2018 and Defendant Nos.1 to 3 and 7 (before the learned Trial Court) in CM(M) 1529/2018 were rejected and not permitted to be taken on record.

3. Learned counsel for the Petitioner submits that the Trial Court refused it on the ground that there was a delay of almost 4 years in filing of the written statement and thus, there was no reason for it to condone the delay and therefore, rejected the request and denied the permission to take on record the written statement.

4. Learned counsel for the Petitioners submits that the Petitioners had filed an application under Order VII Rule 11 of the Code of Civil Procedure, 1908 (CPC) which was taken up right upto the Supreme Court and time was spent in pursuing the legal remedies available to it. She further submits that availment of legal remedies in respect of the application under Order VII Rule 11 CPC ought not to have been counted towards delay in filing the written statement.

5. Respondent No.1, who appears in person, submits that mere filing of the application under Order VII Rule 11 CPC does not act like a *carte blanche* for the Petitioner to not have filed their written statement for which specific time is prescribed in the Civil Procedure Code. Be that as it may, this Court is of the considered opinion that *lis* ought to be decided on merits. Precious time of the parties and the Courts are wasted on such avoidable proceedings. Moreover, in the present case,

Respondent in person, also does not seriously object if one chance is given to the Petitioners.

6. Therefore, both the parties have consented that written statements be directed to be taken on record subject to imposition of reasonable costs imposed upon the Petitioners.

7. Accordingly, subject to payment of Rs.20,000/- as costs by each of the Petitioner Nos.2, 3 and 4 to the Respondent, within two weeks from today, the Trial Court shall take the written statements on record in respect of both the suits, viz. CS No. 59836 of 2016 and CS No. 59837 of 2016 and proceed in accordance with law.

8. With the aforesaid directions, the petitions and the applications filed herewith are disposed of.

9. The date of 08.08.2023 already fixed in CM(M) 1529/2018 stands cancelled.

JANUARY 11, 2023
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TUSHAR RAO GEDELA, J .