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IN THE HIGH COURT OF DELHI AT NEW DELHI

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C.R.P. 261/2023

SHAKUNTALA DEVI

..... Petitioner

Through: Mr. Ajit Singh, Advocate.

versus

ANKUR JAIN

..... Respondent

Through: Mr. Raj Kumar, Mr. Ashok &
Ms. Sangita Chauhan,
Advocates

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER

22.01.2024

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1. The petitioner, who claims to be the landlady in respect of the suit property, has filed a suit being CS(COMM.).57/2023 before the learned Trial Court, seeking recovery of rent/possession of the suit property from the respondent/defendant.
2. It appears that in the said suit, a counter claim has been filed on behalf of the respondent/defendant and a copy of the same was supplied to the petitioner/plaintiff on 23.01.2023. However, since the written statement to the counter claim has not been filed by the petitioner/plaintiff, the impugned order dated 08.08.2023 was passed whereby the learned District Judge (Commercial Court), North District, Rohini, Delhi had noted that there was a delay of 40 days in filing the written statement, and therefore, the written statement was directed to be taken off the record.
3. During the course of arguments, it is pointed out that issues have already been framed in both the matters. The petitioner is an old



lady of about 80 years of age. Although there was a delay of 40 days in filing written statement to the counter claim, however, it is submitted on behalf of the petitioner/plaintiff that although it was recorded in the order dated 23.01.2023 that the copy had been supplied, however, it was only belatedly supplied sometime in the month of April, 2023.

4. Be that as it may, the bottom line is that both the parties are before the learned District Judge (Commercial Court) and evidence of the parties is yet to be recorded. It would be apposite that both the parties are allowed to contest the matter in an appropriate manner so as to enable the learned District Judge (Commercial Court) to adjudicate on the entire gamut of the matter put forth by the respective parties. Apparently no prejudice has been caused to the respondent/defendant for the delay caused in filing the written statement.

5. Accordingly, in the interest of justice, the present review petition is allowed. The impugned order dated 08.08.2023 is hereby set aside, subject to the payment of cost of Rs.10,000/- which shall be paid to the respondent/defendant before the learned District Judge (Commercial Court) on the next date of hearing. It is made clear that nothing contained in this order shall tantamount to an expression of opinion on the merits of the case.

6. The revision petition is disposed of accordingly.

DHARMESH SHARMA, J.

JANUARY 22, 2024/ck