



\$~105

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

% ***Date of decision: 25th October, 2024***

+ **CM(M) 2910/2024 & CM APPL. 63370-63371/2024**

AMATERASU FOODS PVT LTD THROUGH ITS DIRECTOR

.....Petitioner

Through: Mr. Divyakant Lahoti, Ms. Vindhya Mehra, Mr. Kartik Lahoti, Ms. Samridhi Bhatt and Mr. Adith Menon, Advocates

versus

BRAJESH KUMAR PROP OF M/S KUMAR INTERIORS

.....Respondent

Through: Mr. Kailash Chandra and Ms. Poornima Gupta, Advocates along with respondent-in-person

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

CM APPL. 63371/2024 (exemption)

Exemption allowed, subject to all just exceptions.

CM APPL. 63370/2024 (for directions)

1. An application has been moved from the side of respondent seeking direction and stay.
2. Learned counsel for respondent (plaintiff before the learned Trial Court) is also present and with the consent of both the parties, matter is taken up today itself for hearing.
3. Application stands disposed of accordingly.

**CM(M) 2910/2024**

4. The point raised in the present petition is very short one.
5. Plaintiff (respondent herein) had filed a commercial suit on 22.03.2021 seeking recovery.
6. Summons were issued to the defendant (petitioner herein) on 06.04.2021 and admittedly, written statement was filed by him and such written statement was also taken on record by the learned Trial Court on 27.01.2023.
7. Thereafter, plaintiff had sought amendment in his suit and such amendment was allowed.
8. However, pursuant to the amendment, defendant did not file amended written statement. According to defendant, it wanted to challenge the aforesaid order whereby the amendment was allowed and, therefore, it was not quick enough in submitting the amended written statement.
9. Fact remains, eventually, its defence was struck off.
10. According to learned counsel for defendant, in case, he had not filed amended written statement, learned Trial Court should have, at least, proceeded further with the previous written statement filed by him and such written statement could not have been disregarded and his defence could not have been struck off.
11. Learned counsel for respondent (plaintiff) states that he does not want to delay his suit any further and would have no objection if the petition is allowed and the petitioner herein is put to some terms.
12. Keeping in mind the overall facts and circumstances of the case and the concession given by learned counsel for the respondent (plaintiff), present petition is disposed of with the following directions: -



- (i) Petitioner shall file amended written statement before the learned Trial Court by coming Monday i.e. on or before 28.10.2024.
 - (ii) Copy thereof shall also be supplied to the plaintiff/learned counsel for plaintiff.
 - (iii) For causing delay in the matter, petitioner is also burdened with cost of Rs. 15,000/- which shall be payable to the plaintiff on 18.12.2024 before the learned Trial Court.
13. Needless to say, plaintiff shall be at liberty to file replication, if any, to such amended written statement with advance copy to opposite side. Learned Trial Court, keeping in mind the aforesaid pleadings, shall proceed further with the matter in accordance with law and would frame issues and would go for *case management hearing* afresh.
14. Needless to say, in view of the aforesaid directions, the defence of the defendant stands restored.
15. Next date before this Court stands cancelled.
16. Petition stands disposed of in aforesaid terms.
17. Copy of this order be given *dasti* under the signatures of the Court Master.

(MANOJ JAIN)
JUDGE

OCTOBER 25, 2024/*dr*