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

+ **CM(M) 1642/2023**

AMARJEET SINGH SANDHU

..... Petitioner

Through: **Mr. Aayush Khetarpal, Adv.**

Versus

VEENA RANI & ANR.

..... Respondents

Through: **Mr. Utkarsh Dwivedi, Adv.**

CORAM:

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

13.03.2024

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1. The present petition has been filed under Article 227 of the Constitution of India impugning the order dated 24.08.2023 passed in CS DJ421/2022 by the learned Additional District Judge-04, North West District, Rohini Courts, Delhi New (hereinafter referred as 'Trial Court') whereby the learned Trial Court has struck off the defence of the petitioner for non filing of written statement.

2. It is submitted on behalf of the petitioner that on 21.05.2022, respondents herein filed a suit for permanent injunction and damages claiming Rs. 21,00,000/- as compensation on account of defamation. Summons for settlement of issue were issued upon the petitioner on 30.07.2022 and he was served with the summons on 08.08.2022;

3. The learned counsel submits, the petitioner did not receive the copy of the plaint along with the documents annexed thereto along with the summons which he had endorsed on the same date on the summons.



4. It was further submitted on 08.09.2022, petitioner in person appeared before the learned Trial Court with an intern. Admittedly, on the same date of hearing, it was not brought to the notice of the learned Trial Court that the petitioner has not received the copy and hence the learned Trial Court vide order dated 28.09.2022 observed that as neither written statement was filed nor an application seeking extension of time for filing of the written statement was moved, the right to file written statement was closed and matter was listed for recording of the evidence of the plaintiff/respondent for the next date of hearing.

5. The counsel further submits that on 28.01.2023, he had moved an application under Section 151 of the CPC read with Order VIII Rule 1 of CPC requesting for placing the written statement on record nonetheless, the same was dismissed by the learned Trial Court, thus is being aggrieved by the said order he has impugned it before this Court.

6. The arguments are refuted on behalf of the respondents submitting that the petitioner herein had duly received the copies of the plaint with documents which is clear from the record of the process server who has specifically recorded on the summons that along with summons he has furnished the copy also.

7. It is further submitted that on the two consecutive dates of hearing when the petitioner had put an appearance in person and subsequently with his counsel, he has never raised an objection that he has not received the copies before the learned Trial Court. It is submitted that in those circumstances, the learned Trial Court has rightly closed the right of the petitioner to file the written statement and the impugned order does not require any interference of this Court. Moreover, the petitioner has not



challenged the order dated 28.09.2022 but has filed an application under Section 151 read with order VIII Rule 1 CPC which is impermissible in law.

8. Apart from hearing the arguments, this Court has also perused the impugned order, the orders of the learned Trial Court placed on record, as well as the report of the process server and endorsement made by the petitioner on the summons. Needless to say, on the summons there is a specific endorsement made by the petitioner herein '*RESIVI NOT WID KOP*' to establish that petitioner had not received the copies of the suit alongwith summons.

9. The petitioner further submits that along with the suit, the respondent has filed one CD and a Pen drive, the copy of which has not been furnished till date, although, he got the certified copies of the suit & document at his own expense, nonetheless he is unable to file written statement without having received the copy of CD & pendrive. On the summons, the Process Server has not any made report with respect to furnishing of copy of the CD and Pen Drive.

10. It is not disputed that on 08.08.2022 and 28.09.2022, the petitioner did not raise any objection before the learned Trial Court of not having received copy of the suit & documents. It is further undisputed that till date, copy of CD & pendrive, which are annexed with suit has not been furnished to the petitioner by the respondent, therefore, admittedly, he failed to file his written statement.

11. Having considered the above submissions, the record, the petitioner is granted one opportunity to file the written statement, which learned counsel for the petitioner submits that he shall file on the next date of hearing before the learned Trial Court which is on 30.03.2024. The advance copy of the



same be furnished to the respondent within two days.

12. The respondents are directed to furnish the copy of the CD and Pen Drive on the opposite side within two days.

13. With the above directions, the present petition stands disposed of.

SHALINDER KAUR, J.

MARCH 13, 2024/aks