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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% ***Date of Decision: 15th October, 2024***

+ CM(M) 3136/2024 & CM APPL. 45344/2024
DOZERS AND DOZERS LIMITED THROUGH ITS AUTHORIZED
REPRESENTATIVE RAJEEV KAPOORPetitioner
Through: Mr. Zeeshan Diwan, Mr. J. James, Mr.
Anuj Shukla, Mr. Yash Giri and Mr.
Krishna Datta Multani, Advocates.
versus
SHREEGEE METRADE PVT LTD THROUGH ITS DIRECTOR
GAGAN GUPTARespondent
Through: Ms. Ananya Tiwari, Advocate.

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN
JUDGMENT (oral)

1. As already noticed on the last date, the petitioner herein is defending a suit which is commercial in nature. There was delay on his part in filing the written statement but, admittedly, the written statement had been filed within the outer permissible limit of 120 days, *albeit*, on 119th day.
2. The delay was not condoned because of the fact that the defendant (petitioner herein) had not cared to explain each day's delay.
3. According to learned counsel for the defendant, the defendant had health issues and due to some family exigency, he was mentally disturbed and, therefore, could not file the written statement within an initial statutory period of 30 days. It is also informed that his wife has already filed a petition seeking divorce and, therefore also, the delay had occasioned.
4. It is contended that since the written statement had, admittedly, been filed within the permissible outer limit, the learned Trial Court, instead of



rejecting the application seeking condonation of delay or taking off the written statement on record, should have opted to adequately compensate the other side by imposing reasonable cost.

5. Ms. Ananya Tiwari, learned counsel for the respondent/plaintiff appears through video conferencing and admits that the written statement was filed on 119th day. It is also submitted that though the petitioner was required to explain delay in appropriate manner, in order to ensure that there is no further prolonging of her own suit, she would have no objection if the delay is condoned, *albeit*, subject to imposition of heavy cost.

6. Keeping in mind the overall facts and circumstances of the case and the fact that written statement was, admittedly, filed within the permissible outer limit, the petition is disposed of with direction that such written statement shall be taken on record.

7. However, for causing delay and for not filing the written statement within the initial stipulated period of 30 days, the petitioner herein is burdened with the cost of Rs. 50,000/- which shall be paid to the opposite side on the next date of hearing before the learned Trial Court, which is stated to be 21st October, 2024.

8. The petition stands disposed of in the aforesaid terms.

(MANOJ JAIN)
JUDGE

OCTOBER 15, 2024/ss