



2024:DHC:7237



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of decision: 18th September, 2024***

+ CM(M) 3277/2024 & CM APPL. 49833/2024

CITY CLINIC PVT LTD

.....Petitioner

Through: Mr. Ajit Nair, Advocate.

Versus

MAKINO INTERNATIONAL HEALTHCARE PVT LTD

.....Respondent

Through: Mr. Akhilesh Kumar, Advocate.

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

1. A report has been received from the learned Trial Court which clearly indicates that there was no service upon the defendant but despite that the counsel for defendant had appeared before the Court and had filed his 'memo of appearance' which was taken on record. Such report of the learned Trial Court also indicates that the directions were rather given to the plaintiff to supply the copy of plaint and documents by way of electronic mode.
2. This Court has also seen the order dated 4th September, 2023 passed by learned Trial Court whereby specific direction was given to the plaintiff to supply a complete set of the plaint and documents by way of electronic mode.
3. Naturally, the time to file written statement would run, once such set of plaint is supplied.
4. Learned counsel for the respondent/plaintiff, in all fairness, admits that no such copy was ever sent to defendant through electronic mode.
5. After hearing arguments for some time, learned counsel for the respondent/plaintiff states that he would have no objection if one opportunity is granted to the petitioner (defendant) to file written statement and to participate in the proceeding before the learned Trial Court in view of aforesaid peculiar factual matrix.



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6. As directed by this Court, during the course of the present hearing, the entire set of plaint and documents has been supplied to Mr. Ajit Nair, learned counsel for the petitioner/defendant who confirms that such set provided to him is complete and legible and undertakes that written statement would be filed within 30 days from today, before the learned Trial Court.

7. This Court would hasten to supplement that ideally, if entire set of plaint had not been supplied by the plaintiff, it should have not waited unnecessarily and should have rather moved appropriate application before the learned Trial Court apprising the learned Trial Court about the fact of non-supply of plaint. Such non-action on the part of defendant has, obviously, also resulted in delay in the matter.

8. Keeping in mind the overall facts and circumstances of the case, the present petition is disposed of with the directions that the defence of the petitioner is restored and the petitioner (defendant) would file written statement within 30 days from today with advance copy to opposite side and learned Trial Court would take such written statement on record and would proceed further with the matter in accordance with law.

9. Simultaneously, the petitioner is also burdened with cost of Rs.10,000/- as he had no reason to wait for around three months and should have immediately apprised the Court that it had not received the plaint through e-mode.

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

(MANOJ JAIN)
JUDGE

SEPTEMBER 18, 2024/ss