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

% ***Date of decision: 12th September, 2024***

+ **CM(M) 3384/2024 & CM APPL. 53296-53297/2024**

SHRI NANAK CHAND

.....Petitioner

Through: Mr. Amit Kumar, Advocate with Mr.
Deva Singh and Mr. Ashish Verma,
Advocates

versus

JEET SINGH AND ORS.

.....Respondent

Through: None

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

CM APPL. 53297/2024 (exemption)

Exemption allowed, subject to all just exceptions.

CM (M) 3384/2024 & CM APPL. 53296/2024

1. Petitioner herein, while defending the suit as defendant no. 1, also lodged a counter-claim.
2. Such counter-claim has been separately registered and given number as CS DJ -750/2023.
3. The counter-claim was directed against six persons and since defendant no. 6 there i.e. Jag Roshni did not file written statement within the stipulated period, learned Trial Court closed her right to file any written statement to the above-said counter-claim.
4. Grievance of the counter-claimant is that such defendant, subsequently, merely moved an application seeking condonation of delay in filing the



written statement and learned Trial Court, vide order dated 22.08.2024, allowed the above-said application, whereas fact remains that defendant no. 6 had given no reason much less a justifiable one as to why her written statement should have been taken on record and as to why delay should have been condoned. It is contended that defendant no. 6 had not moved any application seeking recall of order dated 15.12.2023 either.

5. I have seen the application which has been moved by said defendant no. 6 under Order VIII Rule 1 r/w Section 151 CPC.

6. Undoubtedly, such application is found to be very sketchy and no compelling reason, has been given. It also needs to be noticed that such application does not even find any mention that her right had earlier been closed.

7. However, there is one important aspect which cannot be lost sight of. When the above-said counter-claim was taken up by learned Trial Court on 15.12.2023, on the pointing out of counter-claimant himself, who had contended that his counter-claim had not been registered by then, learned Trial Court directed to check and register the counter-claim separately.

8. Thus, for all practical purposes, such counter-claim was registered on record, in formal manner, only on 15.12.2023.

9. That being so, on the same very day i.e. on 15.12.2023, learned Trial Court could not have, even otherwise, closed the right of any defendant in such counter-claim to file written statement.

10. Undoubtedly, there is otherwise delay in filing the written statement but this Court is also conscious of the fact that petitioner herein has invoked jurisdiction under Article 227 of the Constitution of India.

11. The Court, while invoking such jurisdiction, should interfere only



when there is glaring irregularities in exercise of jurisdiction. Undoubtedly, such period to file written statement is not rigid and mandatory in relation to any regular suit and merely because the learned Trial Court has liberally interpreted such provision and given permission to one such defendant to file written statement by condoning the delay would not mean that supervisory Courts should interdict with such decision and reasoning given by the learned Trial Court.

12. Viewed thus, I do not find any reason to interfere with the impugned order.

13. Present petition is accordingly dismissed *in limine*.

(MANOJ JAIN)
JUDGE

SEPTEMBER 12, 2024/dr