



\$~109

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

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

+ **CM(M) 3433/2024& CM APPL. 55199-55200/2024**

SUSHILA JAIN AND ANR

.....Petitioners

Through: Mr. Harshit Jain, Ms. Abha Sinha,
Ms. Manpreet Kaur and Mr. Rahul
Malik, Advs.

versus

ANAND PADIA

.....Respondent

Through: Counsel (appearance not given)

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. The petitioners herein are defendant nos.1 and 2 in a recovery suit pending before the learned Trial Court.
2. Defendant no.3 is stated to be a perfunctory party.
3. The petitioners were granted time to file written statement within one week to be reckoned from 23.02.2024. Fact remains that, they did not file the same within the above said stipulated period. It was filed, later on, along with an application seeking condonation of delay.
4. Learned Trial Court considered the above said application and while adopting a liberal approach permitted the written statement to be taken on record, *albeit*, burdened them with a cost of Rs.25,000/- which was to be paid to the plaintiff on 09.08.2024.
5. When the matter was taken up by the learned Trial Court on



09.08.2024, instead of clearing the above said cost, an application was moved by the defendant seeking waiver of the cost. Learned Trial Court observing that such application had no merit, dismissed the same and, simultaneously, the written statement was also directed to be taken off record.

6. Such order is under challenge.

7. Learned counsel for the respondent/plaintiff appears on advance notice.

8. I have heard both the sides.

9. In order to show his *bonafide*, a cheque bearing no.340701 dated 25.09.2024 for Rs.25,000/- has been brought today by the petitioners.

10. Learned counsel for respondent/plaintiff, in all fairness, accepts the same and leaves it to this Court to pass appropriate order.

11. Keeping in mind the overall facts and circumstances of the case and the fact that the cost has now been cleared, the present petition is disposed of with the directions that the written statement filed by defendant nos.1 and 2 shall be assumed to be taken on record and the learned Trial Court would, accordingly, proceed further with the matter in accordance with law.

(MANOJ JAIN)
JUDGE

SEPTEMBER 25, 2024

ns