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

% ***Date of Decision: 07th October, 2024***

+ CM(M) 3548/2024

PARIMA VINOCHA

.....Petitioner

Through: Mr. Nitish Kumar Rai, Advocate.

versus

SONA SHARMA

.....Respondent

Through: Mr. Vivek Kumar Tandon with Ms. Prerna Tandon, Mr. Mayank Tiwari and Mr. Harshit Gahlot, Advocates.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

CM APPL. 58762/2024 (exemption)

Exemption allowed, subject to all just exceptions.

CM(M) 3548/2024

1. Petitioner is defending a suit for recovery.
2. She is aggrieved by order dated 02.09.2024 whereby her right to file written statement has been closed.
3. Learned counsel for the respondent/plaintiff appears on advance notice.
4. There is no doubt that when the suit was initially filed and was taken up by learned Trial Court on 08.01.2024, summons were directed to be issued and pursuant to that, the defendant had appeared before the learned Trial Court for the first time on 11.03.2024.
5. It is also not in dispute that the plaintiff had sought minor amendment in the plaint and such amendment, being formal in nature, was permitted by



the learned Trial Court on 18.05.2024 and after the amendment was allowed, the defendant was directed to file written statement to such amended plaint. When the matter was, thereafter, taken up by learned Trial Court on 02.09.2024, noticing that written statement had yet not been filed, her right to file written statement was closed.

6. Learned counsel for the petitioner/defendant submits that it was only on account of medical exigency that the written statement could not be prepared and placed before the learned Trial Court. It is submitted that there is no deliberate intent to delay the matter and, therefore, it was a fit case where one more opportunity should have been granted to her.

7. When asked, learned counsel for petitioner submitted that he did not move any application seeking recall of the above said order.

8. Learned counsel for respondent/plaintiff is also present and, when asked, he, very fairly, stated that without prejudice to his rights and contentions, he would have no objection if one last and final opportunity is granted, provided exemplary cost is also imposed upon her.

9. Learned counsel for the petitioner, on instructions, submits that the written statement would be filed before the learned Trial Court tomorrow itself.

10. In view of above and gracious concession given by learned counsel for respondent, the present petition is allowed with direction to petitioner to file written statement, tomorrow, before the learned Trial Court with an advance copy to the other side.



11. For causing delay in filing the written statement, the petitioner is also burdened with a cost of Rs. 10,000/-, which shall also be cleared tomorrow.
12. The petition stands disposed of in the aforesaid terms.

(MANOJ JAIN)
JUDGE

OCTOBER 7, 2024/sw