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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of decision: 18th October, 2024

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CM(M) 3637/2024 & CM APPL. 61162-61163/2024

SH SUMIT KUMAR DANG AND ORS

....Petitioners

Through: **Mr. Chetanya Puri with Mr. Anand
Awasthi, Advocates.**

versus

JAI DURGA TRADERS PVT LTD

.....Respondent

Through: **Mr. Munish Chhoker, Advocate
(through V.C.)**

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

JUDGMENT (oral)

1. Petitioners are defending a commercial suit as defendant Nos.1, 2 and 4.
2. They were reportedly served on 08.07.2024 and they all submitted a joint written statement on 06.08.2024.
3. Since such written statement was not accompanying affidavit of admission/denial in the prescribed format, it was not taken on record.
4. Their right to file WS was though closed on 03.09.2024 but they were also given liberty to approach the Court again with appropriate application seeking condonation of delay in filing written statement along with fresh/correct written statement before expiry of 120 days.
5. Such period of 120 days is yet to expire.
6. According to learned counsel for the defendants, when they appeared before learned Trial Court, again, on 30.09.2024, learned Trial Court merely observed that they had not filed written statement and it,



accordingly, framed issues and fixed up the date for recording of evidence through Commission.

7. It is submitted that in the interregnum, same defendants i.e. defendant Nos.1, 2 and 4 had moved an application under Section 151 CPC praying therein to take on record the written statement as well as affidavit of admission/denial of the documents in the prescribed format. It is stated that the above said application had been filed through e-filing module on 06.09.2024 and was re-filed on 10.09.2024. It is also claimed that on 30.09.2024, counsel for the defendants had also carried the hard copy along. It is stated that advance copy thereof was even given to the opposite side but somehow there is no decision on the above said application, either way.

8. Learned counsel for the petitioner also submitted that since there was not going to be any change in the written statement and which had already been filed earlier and which was also in the prescribed format, the subsequent application, merely, contained a prayer to take on record affidavit of admission/denial in the prescribed format.

9. Learned counsel for the petitioner also, very fairly, admits that said application had though been filed, there is no mention about the same in order dated 30.09.2024. He also reiterates that the period has yet not elapsed and, therefore, there is no prejudice of any kind to the petitioner herein and he can still make appropriate request before the learned Trial Court and can even file fresh written statement as per the direction of the Court.

10. As noticed already, according to learned counsel for the



petitioners, since there was no change in the written statement, it merely had filed an application seeking permission to place on record affidavit of admission/denial in the prescribed format and, according to him, such request cannot be turned down on the premise that fresh written statement is also required to be filed.

11. Be that as it may, keeping in mind the overall facts and circumstances of the case and also in view of the admitted position that the application had already been filed by the petitioners herein before the learned Trial Court, the present petition is disposed of with the direction to learned Trial Court to consider the above said application before proceeding any further with the matter. The recording of evidence be also put on hold till disposal of said application.

12. In order to ensure that there is no further complexity of any kind whatsoever, it is also undertaken by learned counsel for petitioners that a fresh written statement would also be filed before learned Trial Court.

13. Let it be done.

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

15. All the parties are directed to appear before the learned Trial Court on 23rd October, 2024.

(MANOJ JAIN)
JUDGE

OCTOBER 18, 2024/st