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

% ***Date of Decision: 27th March, 2025***

+ **CM(M) 182/2023 & CM APPL. 5764/2023**

VIKAS KASHYAP

.....Petitioner

Through: **Mr. Shashwat Jaiswal and Mr. Sanchit
Garga, Advocates (through V.C.)**

versus

KIRTI MUDGAL

.....Respondent

Through: **Mr. Rama Kant Kashyap and
Ms. Anjali Nehra, Advocates.
(through V.C.)**

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Petitioner is defending a suit for possession, recovery of arrears of rent, *mesne* profit and damages.
2. Admittedly, the defendant (petitioner herein) was served with summons on 30.07.2022 and the written statement was filed by him on 05.12.2022.
3. The challenge in the present petition is with respect to order dated 05.12.2022 whereby such written statement has not been taken on record, being filed beyond the stipulated period of thirty days and, the defence of the defendant has also been struck off.
4. Admittedly, when the defendant had appeared before the learned Trial Court on 14.11.2022, the Court, on the basis of submissions made by the defendant, directed the plaintiff to supply a copy of the plaint



and documents to the defendant and, simultaneously, the defendant was given ten days' time for filing written statement from such receipt of complete set of plaint and documents to the defendant.

5. Even if it is assumed for a moment that the entire such set was supplied to the defendant same day i.e. on 14.11.2022, the written statement should have been filed by 25.11.2022 as per the directions of the Court.

6. Admittedly, the written statement has been filed on 05.12.2022.

7. It is no longer *res integra* that service in such type of matters has to be a meaningful service. Unless and until, the complete set of plaint and documents is supplied, the Court cannot expect such adversary i.e. defendant to file a proper written statement. Reference be made to *Rajesh Kathpal vs. Shubh Steel: 2022 SCC OnLine Del 3403*.

8. Be that as it may, since the delay, if reckoned from the date when the complete set of plaint and documents was supplied, seems to be hardly of few days, this Court finds it to be a fit case where the delay should have been condoned.

9. Sh. Kashyap, learned counsel for respondent/plaintiff, during the course of arguments, submitted that he also would have no objection if the delay is condoned subject to imposition of cost.

10. Keeping in mind the overall facts of the case and also considering the concession given by learned counsel for the plaintiff, the present petition is allowed and the written statement filed by the defendant on 05.12.2022, is deemed to be taken on record. As a necessary corollary, the defence of the defendant also stands restored.

11. Replication, if not already filed, be filed by the plaintiff within



four weeks from today and thereafter, the learned Trial Court shall proceed with the matter, in accordance with law.

12. Simultaneously, for causing delay in filing the written statement, the defendant is burdened with a cost of Rs.15,000/-. Let such cost be paid to plaintiff/counsel for the plaintiff (respondent herein) on next date, fixed before the learned Trial Court.

13. The petition, along with pending application, stands disposed of in aforesaid terms.

(MANOJ JAIN)
JUDGE

MARCH 27, 2025
st/js