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

+ **CM(M) 210/2025**

PRAVEEN KUMAR JAIN & ANR.

.....Petitioners

Through: Mr. Rituraj Biswas, Mr. Murari
Kumar Singh and Mr. Mayan Prasad,
Advts.

versus

SUSHIL KUMAR JAIN & ANR.

.....Respondents

Through: Mr. Piyush Jain, Adv. with
respondent no.1 in person.

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

03.02.2025

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CM APPL. 6404/2025 EXEMPTION

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

CM(M) 210/2025 & CM APPL. 6403/2025 STAY

1. Petitioners are defendant nos. 1 and 2 in the suit for mandatory and permanent injunction filed by the plaintiff before the trial court.
2. Petitioners are aggrieved by the order dated 13.12.2024 passed by the learned trial court whereby the rights of the petitioners to file the written statement has been closed.
3. Learned counsel for the petitioners submits that petitioners appeared before the trial court for the first time on 08.08.2024 and on appearance, the



matter was referred to the Mediation Centre. The mediation continued and lastly it was reported to the Court on 13.12.2024 that the mediation has failed. Since written statement was not filed within the stipulated period of 90 days, the right to file the written statement was closed.

4. Learned counsel submits that petitioners did not file the written statement because of pendency of the mediation proceedings.

5. Learned counsel prays for grant of one opportunity to file the written statement.

6. Learned counsel for the respondents submits that the mediation proceedings were over on 14.11.2024. He further submits that petitioners neither filed any application for restoration of the right to file the written statement nor filed any application for condonation of delay. However, he has no objection in case one opportunity be granted to the petitioners to file the written statement subject to cost.

7. Admittedly, the petitioners were referred for mediation on the very first day on appearance of the petitioners before the trial court. The record also reveals that mediation proceedings continued for quite a long time before they were finally concluded on account of failed settlement.

8. The period stipulated for filing the written statement is not mandatory but directory. It would be more appropriate if the lis between the parties is decided on merits. The rules of procedure should not come in the way of substantive justice.

9. Keeping in view the entire facts and circumstances, as also the concession given by the learned counsel for the respondent, the petition is allowed, and petitioners are granted one week time to file their written statement before the trial court subject to cost of Rs.10,000/-.



10. It is made clear that petitioners shall not seek any adjournment from the trial court to file the written statement on account of any reason whatsoever.

RAVINDER DUDEJA, J

FEBRUARY 3, 2025/ib/ia