



\$~43

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

% ***Date of Decision: 20th March, 2025***

+ **CM(M) 522/2025 & CM APPL. 16305-16306/2025**

SHRI BHUSHAN KUMAR

.....Petitioner

Through: Mr. Tushar Sharma, Advocate.

versus

GAURAV

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Petitioner has filed a suit for recovery against defendant (respondent herein) seeking recovery of Rs.33 lacs approximately.
2. Petitioner/plaintiff is aggrieved by order dated 22.01.2025 whereby learned Trial Court, while allowing the application filed by defendant has permitted the written statement to be taken on record.
3. Admittedly, copy of plaint was supplied to defendant on 28.03.2023 and thereafter the matter was adjourned to 05.08.2023. On 05.08.2023, since the written statement had not been filed, the opportunity to file written statement was closed and the case was fixed for recording of plaintiff's evidence.
4. In the interregnum, petitioner moved an application, *albeit*, under wrong provision of law. He submitted therein that he had engaged a new counsel and that copy of the plaint had been given by him to his previous counsel who had been representing him in the complaints filed under Section 138 of Negotiable Instrument Act, 1881 which were also between the same parties. However, the defendant was not satisfied with his previous counsel and when he asked for return of his file, the file was not returned to him by the



previous counsel and, therefore, he was in no position to file written statement within the give time-frame.

5. It also needs to be mentioned that when the abovesaid application was taken up by learned Trial Court on 22.01.2025, the Court also deemed it prudent and appropriate to even record the statement of the defendant, invoking its powers under Order X CPC. It was only after recording his such statement, learned Trial Court formed an opinion and was convinced that defendant had sufficient cause for belated filing of the written statement. Resultantly, learned Trial Court, while setting aside order dated 05.08.2023, permitted the written statement to be taken on record, while also imposing cost of Rs.10,000/-.

6. This Court is conscious of the fact that the present petition has been filed under Article 227 of the Constitution of India and the scope of interference, while exercising such supervisory powers, is very limited. There is nothing to show any kind of illegality or perversity in the order whereby the learned Court, while exercising its discretion and satisfying itself about the reason of belated filing, has permitted to take the written statement on record.

7. Therefore, this Court does not find any merit or substance in the present petition.

8. The petition, along with pending applications, is, accordingly, dismissed.

(MANOJ JAIN)
JUDGE

MARCH 20, 2025/st/pb