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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% **Date of Decision: 2nd April, 2025**

+ CM(M) 529/2025 & CM APPL. 16600/2025

M S GOLF INTERNATIONAL

.....Petitioner

Through: Mr. Yashaswi S.K. Chocksey with
Mr. Ankit Singh, Mr. Vijay Rajput and
Mr. Praveen Jaiswal, Advocates.

versus

M/S KARSHIVNIK INTERNATIONAL PVT LTDRespondent

Through: Ms. Ankita Baluni, Advocate.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. The point raised in the present petition is very short and precise.
2. Admittedly, a commercial suit has been filed by M/s Karshivnik International Pvt. Ltd. (respondent herein).
3. Opportunity to file written statement has already been closed and defence of the defendant/petitioner has also been struck off.
4. Fact remains that when such commercial suit was taken up by the learned Trial Court on 18.02.2025, it considered one application moved by plaintiff whereby it sought permission to place on record additional documents and the learned Trial Court, observing that since the opportunity to file written statement had been closed, did not think it appropriate to even issue notice of the abovesaid application to the defendant/ petitioner. It was of the view that no prejudice would be caused to the defendant as its right to file written statement had already been closed and after hearing arguments on the abovesaid application, the same was allowed subject to cost, which was directed to be deposited with *Advocate Welfare Fund*.
5. The grievance in the present petition is merely to the effect that even if



the defence of the defendant had been struck off and its right to file written statement had been closed, it should still have been given an opportunity to oppose the abovesaid application. Learned counsel for the petitioner/defendant No.1 submits that, moreover, the above application was moved when part final arguments had been heard by the learned Trial Court.

6. Learned counsel for the plaintiff/respondent also does admit and acknowledge that even when the defence is struck off, any such defendant has right to participation, *albeit*, a limited one.

7. Though, the impugned order also records the opposition of counsel for defendant No.1 to the abovesaid application, fact remains, that the impugned order is not sustainable as the learned Trial Court should have, as a bare minimum, issued a formal notice of the abovesaid application to defendant, irrespective of the fact whether its defence had been struck off or its right to file written statement had already been closed.

8. The impugned order dated 18.02.2025 is, accordingly, set aside with direction to the learned Trial Court to hear the abovesaid application afresh, after giving due opportunity of hearing to defendant No.1.

9. The matter is, reportedly, fixed for further arguments before the learned Trial Court on 05.04.2025. The petitioner herein would be at liberty to file reply, if any, to the abovesaid application, before the next date of hearing with advance copy to the opposite side.

10. The present petition, along with the pending applications, stands disposed of in the aforesaid terms.

(MANOJ JAIN)
JUDGE

APRIL 2, 2025/st/SS