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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 557/2025 & CM APPL. 17478-17479/2025**
CHANDAN BHATIA

.....Petitioner

Through: Mr. Mohit Gupta along with Ms. Priya
Diwan, Mr. Sumeet K., Mr. Banke
Bihari Jee and Mr. Sachin Kumar,
Advocates.

versus

MR SATISH SINGHAL & ANR.

.....Respondent

Through: None.

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN

ORDER

26.03.2025

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1. The petitioner is defending a suit for recovery of possession, arrears of rent, injunction etc.
2. The challenge in the present petition is to order dated 25.02.2025 whereby application moved by the defendant (petitioner herein) under Section 151 CPC, seeking recall of order dated 23.10.2024 whereby his defense was struck off, has been dismissed.
3. The abovesaid order is composite in nature as by virtue of the same order, one another application moved by defendant under Order I Rule 10 CPC has also been dismissed.
4. Learned counsel for petitioner submits that by virtue of the present petition under Article 227 of the Constitution of India, the grievance is only with respect to dismissal of his application moved under Section 151 CPC.
5. This Court has seen the earlier order dated 23.10.2024 passed by the



learned Trial Court whereby the Court had struck off the defense of defendant, based on the specific observations contained in order dated 08.12.2023 passed by this Court in CM(M) 1840/2023.

6. Admittedly, earlier also the petitioner had knocked the door of this Court. At that time, he had taken exception to one order dated 25.10.2023 passed by learned Trial Court whereby the right of the defendant (petitioner herein) to file written statement was closed and he was proceeded against *ex-parte*.

7. While dealing with the abovesaid petition, this Court directed as under:-

“5. In view of the aforesaid undertaking given by the Petitioner for payment of future use and occupation charges and the remittance of the arrears, with the consent of the parties, the impugned order dated 25.10.2023 is set aside and the Petitioner is directed to comply with the following conditions: -

(i) The Petitioner will file his Written Statement and his affidavit of admission/denial of documents filed with the plaint within a period of two (2) weeks.

(ii) The Respondents will file their replication along-with affidavit of admission/denial of documents and additional documents, if any, within a period of four (4) weeks thereafter.

(iii) The parties shall appear before the Trial Court on 04.01.2024.

6. In view of the aforesaid directions, the order of the Trial Court dated 01.03.2023 and 25.10.2023 is set aside.

7. The Registry is directed to release the four (4) demand drafts deposited by the Petitioner under the cover of his letters dated 09.11.2023, 16.11.2023, 24.11.2023 and 01.12.2023 to the Respondent or his authorised representative within a period of one (1) week.

8. It is directed that if the Petitioner herein defaults in making payment of the future use and occupation charges, then his defence will be struck off as per Order XVA CPC. This order shall operate as a show cause to the Petitioner as per Order XVA (2) of CPC and no further show cause will be issued to the Petitioner.

9. It is noted from the record that the Petitioner has been grossly negligent in prosecuting this matter, which has unreasonably delayed the trial from November, 2022 for the period of 12 months.

9.1. At this stage, the Petitioner undertakes to this Court that he shall



remain duly represented before the Trial Court on each date of hearing; and not seek any adjournment.

9.2. It is further directed that in case, the Petitioner defaults in appearing before the Trial Court and cooperating in expeditious disposal, the Trial Court will be at liberty to exercise its jurisdiction under Order 17 CPC and in those circumstances, the previous order dated 01.03.2023 proceeding ex-parte against him will be duly taken into consideration.

10. With the aforesaid directions, the present petition stands disposed of.

11. Pending application(s) if any stands disposed of.”

(emphasis supplied)

8. The sole contentions raised in the present petition is to the effect that for future defaults, the defense could not have been struck off, without there being *show cause notice*, afresh.

9. However, in view of the abovesaid extracted observation as contained in para 8 of order dated 08.12.2023, this Court does not find any infirmity in the order in question.

10. The learned Trial Court, while being fully mindful and conscious of the above specific directions, ordered the defense to be struck off and when, subsequently, an application under Section 151 CPC was filed, the same was also dismissed for the similar reason.

11. In view of the above, this Court does not find any reason to interfere with the impugned order, which has been passed while adhering to the specific directions given by this Court.

12. The present petition, along with pending applications, stands disposed of.

MANOJ JAIN, J

MARCH 26, 2025/ss/js