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

% ***Date of Decision: 7th April, 2025***

+ **CM(M) 649/2025 & CM APPL. 20561-20562/2025**

INDRANI BASU ROY

.....Petitioner

Through: **Mr. Amrik Singh, Advocate.**

versus

JAGABANDHU BANERJEE

.....Respondent

Through: **Mr. Swarup Sagar Roy, Advocate**
(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 recovery and is aggrieved by order dated 09.12.2024 passed by the learned Trial Court observing that since the written statement has not been submitted within the statutory period and no application seeking condonation of delay has been filed either, her defence has been struck off.
2. According to learned counsel for the petitioner/defendant, there is a delay of *mere two days*, beyond the permissible outer limit of ninety days in filing the written statement and since the suit was regular in nature, not a commercial one, and since the provision with respect to filing of a written statement in a regular suit is merely directory in nature, the Court should have condoned the delay and should have taken the written statement on record.
3. Mr. Swarup Sagar Roy, learned counsel for respondent/plaintiff appears on advance notice. He submits that he is representing the



respondent/plaintiff before the learned Trial Court also. He does admit the fact that when the matter was taken up on 09.12.2024 by the learned Trial Court, there was a delay of two days beyond the outer limit of ninety days. He, however, submits that no reason had been assigned by the petitioner/defendant as to why she had not filed the written statement within the initial permitted period and, therefore, though there is no illegality or perversity in the impugned order, he would, without prejudice to his rights and contentions and in order to ensure that there is no further delay in his own suit, have no objection if the written statement is directed to be taken on record, *albeit*, subject to imposition of cost.

4. Keeping in mind the overall facts and circumstances of the case and the gracious concession given by Mr. Roy, learned counsel for the respondent, the present petition is allowed with the directions that the written statement, if not already filed, be filed before the learned Trial Court within five working days from today. Advance copy thereof be also supplied to plaintiff/learned counsel for plaintiff. Moreover, for causing delay in the matter, the petitioner/defendant is also burdened with a cost of Rs.8,000/- . Such cost be paid to the respondent/plaintiff on next date fixed before the learned Trial Court which is stated to be 22.05.2025. Needless to say, the defence of the defendant stands restored in aforesaid terms.

5. The present petition, along with the pending applications, is disposed of in view of above terms.

(MANOJ JAIN)
JUDGE

APRIL 7, 2025
st/shs