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

% ***Date of Decision: 15th May, 2025***

+ **CM(M) 905/2025 & CM APPL. 29401-29402/2025**

SEEMA RANI JAIN

.....Petitioner

Through: Mr. Alok Kumar, Sr. Advocate with
Mr. S B Chaturvedi, Mr. Amit Kumar
Singh, Mr. Varun Maheshwari and
Mr. Manan Joshi, Advocates.

versus

M/S CANADIAN SPECIALITY VINYL

.....Respondent

Through: Mr. Raveesh Thukral, Adv

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Petitioner herein is defending a suit which is commercial in nature and is aggrieved by order dated 16.04.2025 whereby her amended written statement has been refused to be taken on record and, simultaneously, one application moved by defendant under Order XI Rule 14 read with Section 151 CPC has also been dismissed.

2. Mr. Alok Kumar, learned Senior Counsel for petitioner, on instructions, submits that as far as the prayer in context of dismissing of application moved under Order XI Rule 14 CPC is concerned, the same is not pressed and, therefore, the relief in the present petition is, now, merely,



restricted to the effect that the amended written statement may be permitted to be taken on record.

3. The suit in question was filed on 23.04.2019 and written statement was filed on 06.05.2023.

4. It is not disputed that the abovesaid filing of written statement was within the permissible outer limit and in terms of proviso to Order VIII Rule 1 CPC, as applicable to commercial disputes.

5. However, thereafter, the petitioner sought amendment in its plaint and amendment was allowed on 29.11.2024. Consequent to such amendment being allowed, the amended plaint was placed on record by the plaintiff on 18.12.2024.

6. Undoubtedly, the above was second request coming from the side of the plaintiff whereby it was seeking amendment in the plaint.

7. Be that as it may, the learned Trial Court, while taking the amended plaint on record, directed the defendant to file amended written statement by next date of hearing i.e.17.01.2025.

8. Thereby, a period of around of 30 days was given to the defendant to file written statement.

9. The amended written statement was, admittedly, not filed within the abovesaid time-frame and an application was filed on 28.02.2025, seeking extension of time. The defendant also moved an application seeking condonation of delay in submitting such amended written statement and by virtue of impugned order dated 16.04.2025, the learned Trial Court has dismissed such application seeking condonation of delay.

10. The learned Trial Court also relied upon Order VI Rule 18 CPC which reads as under:-



“18. Failure to amend after Order.—If a party who has obtained an order for leave to amend does not amend accordingly within the time limited for that purpose by the order, or if no time is thereby limited then within fourteen days from the date of the order, he shall not be permitted to amend after the expiration of such limited time as aforesaid or of such fourteen days, as the case may be, unless the time is extended by the Court.] ”

11. However, the abovesaid rule would come into play in favour of the party who seeks an order for leave to amend the pleadings. In the case in hand, the leave was rather sought by her adversary and the application moved by the plaintiff under Order VI Rule 17 CPC was allowed and, resultantly, there was a direction to defendant to file amended written statement.

12. The Court has also seen order dated 29.11.2024 whereby the plaintiff was permitted to amend the suit.

13. The suit was seeking recovery of sum of Rs. 38,07,100/- and the plaintiff, in view of the amended ledger, restricted its claim against the sole defendant to Rs. 28,28,784/- . It also needs to be highlighted that earlier the suit was filed against three defendants but defendant No.2 and 3 were also deleted from the array of the parties.

14. Obviously, the amendment was not wholesome in nature, but fact remains that while allowing the amendment, the learned Trial Court, in no uncertain terms, granted liberty to the plaintiff to submit amended plaint within 15 days and it is quite clear that such amended plaint was not filed by the plaintiff, within the stipulated period of 15 days.

15. On 18.12.2024, however, the defendant was given an opportunity to file amended written statement by next date of hearing i.e. 17.01.2025.

16. This Court is fully conscious of mandatory provision prescribed for



filing of written statement in terms of proviso to Order VIII Rule 1 CPC but that comes into play when defendant is required to submit written statement, after being served with the summons. The outer permissible limit is maximum of 120 days.

17. However, in the case in hand, the abovesaid position has already been crossed as after being served, the defendant had appeared and had even filed his written statement.

18. The time frame, within which the amended written statement in any such situation is to be filed by the defendant when plaintiff is permitted to amend the plaint cannot be, *ipso facto*, the same one but it should not, at the same time, exceed period of 120 days.

19. Generally speaking, any such defendant should adhere to the time-frame given in this regard by the learned Trial Court and the Court can also, on being sufficient cause shown in this regard, can extend the time but fact remains that if amended WS is taken off the record, it would be causing serious prejudice to the defendant, particularly, when the amended written statement was filed within a period of 89 days, to be reckoned from the date when the amended plaint was filed on the record.

20. Learned counsel for respondent/plaintiff submits that he does not wish to cause any further delay in his suit and would have no objection if the amended written statement is directed to be taken on record, albeit, subject to exemplary cost.

21. It is noticed that when the other application moved under Order XI Rule 14 CPC was dismissed by the learned Trial Court, the petitioner was burdened with a cost of Rs. 25,000/-, which in itself is quite high.

22. It is apprised that such cost has yet not been deposited with the



concerned Fund-Scheme.

23. Let it be done within two weeks from today.

24. While permitting the amended WS to be taken on record, for its belated filing, the petitioner herein is burdened with cost of Rs. 10,000/- which be paid to the plaintiff/learned counsel for the plaintiff on the next date of hearing before the learned Trial Court.

25. Petition stands disposed of in aforesaid terms.

26. Pending application, also, stand disposed of in aforesaid terms.

(MANOJ JAIN)
JUDGE

MAY 15, 2025/sw/SS