



2025:DHC:7299



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Date of Decision: 22nd, August, 2025*

+ CM(M) 1052/2025, CM APPL. 34791/2025 & CM APPL. 34792/2025
MOHINDER PAHUJA

.....Petitioner

Through: Mr. Rajat Wadhwa, Mr. Dhruv
Chaudhary, Mr. Gurpreet Singh and
Mr. Manish Kumar, Advocates

versus

DAYA NAND TOKAS

.....Respondent

Through: Mr. Saurabh Sharma, Advocate.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Pursuant to issuance of notice, Mr. Saurabh Sharma, learned Counsel for respondent appears and draws the attention of this Court to order dated 06.05.2024.
2. He submits that the spare copies of the plaint and documents was available on record that day and even the learned Trial Court had asked the defendant to collect the same against acknowledgment. He submits that, for the reason best known to the defendant or his counsel, no endeavor was made to collect the copy, thereof, and, therefore, their grievance that their written statement has been closed, unwarrantedly, is totally without any substance.
3. However, after hearing arguments for some time, learned counsel for



respondent, without prejudice to his rights and contentions, submits that since the written statement, though, a belated one, is already on record, he would have no objection if such written statement is deemed to be on record, *albeit*, subject to imposition of heavy cost.

4. Undoubtedly, the order dated 06.05.2024 is amply clear and the learned Trial Court very clearly specified in said order that the spare set was available for defendant and defendant was, accordingly, asked to collect the same against acknowledgement.

5. Undoubtedly, that day, the counsel for the defendant had appeared through *video conferencing* but that itself would not mean that the defendant could not have collected the copy from the record of Court in terms of the abovesaid order.

6. The copy was, eventually, collected by him two months later and, therefore, there is delay in filing the written statement.

7. At the same time, this Court is also conscious of the fact that period specified for filing written statement in a regular suit is directory and not, strictly speaking, mandatory in nature.

8. Keeping in mind the overall facts of the case and also considering the gracious concession given by the learned counsel for respondent/plaintiff, present petition is disposed of with direction that the written statement filed on 17.10.2024 shall be deemed to be on record.

9. Learned Trial Court is, accordingly, requested to proceed further with the matter, in accordance with law.

10. Needless to say, respondent/plaintiff would be at liberty to file replication, if any.

11. However, for causing delay in the matter, the defendant is burdened



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with cost of Rs. 25,000/-, which shall be paid to plaintiff on the date fixed before the learned Trial Court, which is stated to be 29.08.2025.

12. Petition stands disposed of in aforesaid terms.
13. Pending applications also stand disposed of in aforesaid terms.

(MANOJ JAIN)
JUDGE

AUGUST 22, 2025/sw/JS