



2025:DHC:1734



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% **Date of Decision: 17th March, 2025**
+ CM(M) 2902/2024 & CM APPL. 38555/2024 & CM APPL.
43187/2024
M/S L.I.I TRADE PARK PVT LTD

.....Petitioner

Through: Mr. Pawan Kumar, Advocate.

versus

SANJOO KHERA

.....Respondent

Through: Mr. Anubhav Agrawal, Advocate.

CORAM:**HON'BLE MR. JUSTICE MANOJ JAIN****J U D G M E N T (oral)**

1. Petitioner is defending a suit for eviction, recovery of possession, arrears of rent, *mesne profits* and damages etc.
2. During the pendency of the abovesaid suit, defendant (petitioner herein) moved an application under Order VIII Rule 1 CPC praying therein that the delay in filing the written statement may be condoned.
3. Learned District Judge, South East, Saket, Delhi, after hearing both the sides and noticing the conduct of the defendant, dismissed the abovesaid application and also struck off the defence of said defendant.
4. Such order dated 06.06.2024 is impugned herein.
5. Learned counsel for respondent (plaintiff before the learned Trial Court) has already filed a reply to the present petition.
6. This Court has gone through the averments made by the petitioner in the application which he had filed under Order VIII Rule 1 read with Section



151 CPC whereby he sought condonation of delay on the ground that the defendant was busy in some personal work and that the counsel was unable to come as he had met with some accident.

7. The defendant was served with summons on 07.02.2024 and, admittedly, written statement was filed by him on 15.05.2024. If the initial period of 30 days is excluded, there is, reportedly, delay of 66 days in filing the written statement.

8. The suit is non-commercial in nature and, therefore, the timeline provided for the purposes of filing of written statement is not rigorous or mandatory.

9. Learned counsel for respondent submits that though no justifiable reason has been disclosed in the present petition, without prejudice to his rights and contentions and in order to ensure that there is no further delay in abovesaid suit, he would have no objection if the written statement is directed to be taken on record, *albeit*, subject to imposition of heavy cost. He also submits that the learned Trial Court had passed an order on 09.07.2024 whereby the tenant i.e. petitioner herein had been directed to clear the arrears of rent i.e. user charges at the rate of lastly agreed rent. It is submitted that even such direction has yet not been complied with.

10. Be that as it may, keeping in view the overall facts of the present case and also appreciating the gracious concession given by the learned counsel for respondent, present petition is allowed with direction that such written statement directed to be taken on record.



2025:DHC:1734



11. However, for causing delay in the matter, petitioner is burdened with a cost of Rs. 30,000/-. The next date before learned District Judge is, reportedly, 07.04.2025. Let such cost be cleared before the learned Court on said date. In case, the cost is not paid by the said date, the written statement would be deemed to be off the record.

12. The petitioner (defendant before the learned Trial Court) shall render requisite assistance and cooperation to the learned Trial Court and would not seek any unnecessary adjournment. This is to ensure expeditious disposal of the matter.

13. Needless to say, in case, order dated 09.07.2024 is not complied with, learned Trial Court would be at liberty to pass further orders in accordance with law, after giving due opportunity of hearing to both the sides.

14. In case, the requisite cost is paid and the written statement is taken on record, the petitioner would be at liberty to file replication, if any.

15. The present petition along with pending applications, if any, stand disposed of in aforesaid terms.

(MANOJ JAIN)
JUDGE

MARCH 17, 2025/sw/SS