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

% ***Date of Decision: 21st July, 2025***

+ CM(M) 1304/2025 & CM APPL. 43195-43196/2025

ANISHA JAIN & ANR.

.....Petitioner

Through: Mr. Anuj Jain, Advocate (Through
VC)

versus

RVS DIA JEWELS

.....Respondent

Through: Mr. Ashbim Shridhar, Ms. Niyati
Patwardhan and Ms. Ishika Jain,
Advocates

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Petitioners are defending a suit which is commercial in nature and are aggrieved by order dated 11.07.2025 whereby their application moved under Order VIII Rule 1 CPC has been dismissed and written statement has been directed to be taken off the record.
2. Admittedly, written statement was submitted on 120th day.
3. Learned counsel for respondent/plaintiff appears on advance notice and submits that though the defendants should have been vigilant and should have filed the written statement without any unnecessary delay, particularly, when the initial period of filing the written statement was thirty days and when they never approached the learned Trial Court with any reason which might have prevented him from filing written statement within the initial period of thirty days.
4. Be that as it may, it is apparent that written statement has been filed within the permissible outer limit, *albeit*, on the very last day when the period



was going to expire.

5. It is also noticed that, earlier, when the matter was taken up by the learned Trial Court on 15.04.2025, it closed the right of defendants to file written statement and defence was also struck off whereas by that time, the period of 120 days had yet not elapsed.

6. Learned counsel for respondent, however, submits that, without prejudice to his rights and contentions and in order to ensure that there is no further unwarranted delay in his own suit, he would have no objection if the petition is allowed and the petitioner is permitted to participate in the proceedings.

7. Keeping in mind the overall facts of the case and the fact that the written statement was submitted before the learned Trial Court within the outer permissible limit, present petition is disposed of with direction that such written statement shall be deemed to be on record. However, for causing delay in the matter, petitioners herein are burdened with cost of Rs. 40,000/- which shall be paid to the plaintiff on the next date of hearing before the learned Trial Court.

8. Learned counsel for respondent/plaintiff submits that he does not wish to file any replication and also informs that during further proceedings of the matter, a Local Commissioner was appointed for the purpose of recording of evidence and he has already led his *ex parte* evidence.

9. Learned counsel for petitioner/defendant, in all fairness, submits that he would bear the remaining expenses towards aforesaid Commission and would bear the cost towards the conducting of cross-examination of the witnesses of plaintiff and also the expenditure with respect to the their own witnesses, on the terms & conditions as already reflected in the order whereby



the learned Trial Court had appointed Local Commissioner.

10. The present petition stands disposed of in the aforesaid terms.

11. Before parting, this also needs to be highlighted that earlier, the learned Trial Court had, merely, framed notional issues and it will be entirely upto the learned Trial Court to see whether, in view of stand taken in written statement, additional issues are required to be framed or not. The aforesaid call be taken by the learned Trial Court after hearing contentions from both the sides.

12. Pending applications also stand disposed of in the aforesaid terms.

(MANOJ JAIN)
JUDGE

JULY 21, 2025/dr/shs