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

+ CM(M) 1983/2023 & CM APPL. 62154/2023 (stay), CM APPL. 63977/2023 (to place on record addl. documents)

SUDIPTO DUTTA

.....Petitioner

Through: Ms. Pratiksha Sharma, Mr. Ankit Acharya and Ms. Ritu Chaudhary, Advs.

versus

RAM MURTI PAUL

.....Respondent

Through: Mr. Shahbaz Akhtar, Advocate.

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

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30.01.2025

1. This is a petition under Article 227 of the Constitution of India seeking to set aside the order dated 01.11.2023 passed by learned District Judge (Commercial Court-01), Patiala House Courts in CS(COMM) 661/2021.
2. Petitioner herein is the defendant no.3 before the learned trial court.
3. The record reveals that petitioner was served 01.09.2022 but was proceeded ex parte vide order dated 28.10.2022. The application filed by the petitioner for setting aside the ex parte order was allowed on 29.08.2023.
4. Pursuant to the said order, the petitioner filed written statement on 11.09.2023.
5. Vide impugned order dated 01.11.2023, the learned trial court held that the written statement filed by the petitioner cannot be taken on record



because he did not comply with the provisions of the Commercial Courts Act inasmuch as the statement of truth was not in accordance with the prescribed format and the written statement lacked the required verification. Accordingly, the written statement was taken of the record.

6. Learned counsel for the petitioner fairly admits that the written statement was inadvertently not bearing the verification para. However, she states that the statement of truth is in accordance with the mandate of Commercial Courts Act.

7. Learned counsel for the petitioner submits that the written statement duly verified is ready with the petitioner and if permitted the petitioner will file the same without any delay.

8. Learned counsel for the respondent submits that due to lack of verification and improper statement of truth considerable delay has occurred in the trial of the case of the respondent, who is a senior citizen.

9. In the opinion of the court, the lis between the parties must be decided on merits and for the delay caused the respondent can be compensated with cost.

10. Improper verification of written statement is a curable defect. Since the written statement was struck off from the record, just because of lack of verification, the Court deems it appropriate to grant one more opportunity to the petitioner to file revised written statement with due verification as per law, subject to cost of Rs.10,000/-. In order to avoid any ambiguity, if the statement of truth filed is not in accordance with the provisions of Commercial Courts Act, let the same be also filed within two weeks.

11. The petition is allowed in terms of the aforesaid order with direction that the revised written statement as also the statement of truth be filed



before the trial court within a period of two weeks with advance copy to the respondent.

RAVINDER DUDEJA, J

JANUARY 30, 2025/ib/ia