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

% ***Date of Decision: 25th March, 2025***

+ CM(M) 3745/2024 & CM APPL. 63890/2024 & CM APPL.
63892/2024
NAMPAL SINGH & ANR.

.....Petitioner

Through: Mr. Hargovind Jha, Advocate.

versus

SH RAMESH CHAND

.....Respondent

Through: Mr. P K Jain, Advocate.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Petitioners are defending a suit for recovery and are aggrieved by order dated 15.05.2024 whereby their application moved under Order VIII Rule 1 CPC has been dismissed and, resultantly, the written statement has not been taken on record.
2. Fact remains that though their right to file written statement was also closed by the learned Trial Court after the abovesaid order was passed, the defendants and their counsel themselves appeared before the Court same day and were even informed by the learned Trial Court about the next date of hearing and the purpose. However, despite that, the written statement was submitted by them belatedly i.e. on 12.07.2024.
3. The defendant were, reportedly, served on 19.02.2024 and, therefore, there is apparently delay in filing the written statement.



4. This Court has seen the reasons mentioned by the defendants whereby they had sought condonation of delay. This Court is also mindful of the fact that the suit in question is a regular suit i.e. *Non-Commercial suit* and the petitioner, *inter alia*, seeks recovery of principal amount of Rs. 6,00,000/-.

5. Mr. Jain, learned counsel for respondent appears on advance notice and submits that there is no illegality in the order and rather the defendant themselves are to be blamed for their miseries as despite being fully aware about the above said suit, they did not file written statement within the stipulated period.

6. The suit, as already noticed is not commercial in nature and, therefore, the rigors and stringent provisions with respect to timely filing of written statement in a commercial suit would not be applicable here. Though the time-line for filing written statement in suit of present nature is directory in nature, it does not give any automatic handle to any such litigant to take things in a *casual* and *nonchalant* manner and to file written statement in a laid back manner and then to seek condonation of delay.

7. Learned counsel for petitioner submits that the parties had been even referred to Mediation with respect to a criminal complaint filed under Section 138 of Negotiable Instruments Act, 1881 and such matter, unfortunately, did not settle, though, the petitioner was, somehow, expecting amicable solution. He, being a retired Government teacher, was never, earlier, entangled in any case of such nature and was not fully aware about the Court proceedings and, therefore, there is delay in filing the written statement which may be condoned.

8. As already noted above, the period for filing of written statement in a regular suit is not mandatory in nature. Reference be made to *Salem Advocate*



Bar Association vs Union of India (2005) 6 SCC 344 and *Kailash vs Nankhu and Others* (2205) 4 SCC 480. Moreover, the endeavour of the Court should be to decide the *lis* on merits, instead of, on technicalities and, therefore, keeping in mind the overall facts of the case, the present petition is allowed by directing that the written statement filed by the defendants on 12.07.2024 shall be deemed to be on record.

9. However, for causing delay in the matter, the petitioners are burdened with cost of Rs. 25,000/- which shall be paid to the opposite side on the next date of hearing before the learned Trial Court, which is stated to be 14.04.2025.

10. In case, the cost is paid, the learned Trial Court shall, permit the plaintiff to file replication and would proceed further with the matter, in accordance with law.

11. Petition stands disposed of in aforesaid terms.

(MANOJ JAIN)
JUDGE

MARCH 25, 2025/sw/js