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

+ **CM(M) 2378/2025 & CM APPL. 77297/2025**

SHWETA JAIN THROUGH SPA TARUN JAINPetitioner

Through: Mr. Deepanshu Choithani, Mr.
Mayank Pachuri, Mr. Rishabh Jain
and Mr. Madhav Nagpal, Advocates.

versus

NAND LAL GOYALRespondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE GIRISH KATHPALIA

ORDER

08.12.2025

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1. Petitioner/plaintiff has assailed order dated 12.11.2025 of the learned commercial court, whereby her application under Order VIII Rule 10 CPC was dismissed and opportunity was granted to her to file replication.
2. Learned counsel has taken me through order dated 17.10.2025 of this bench in CM(M) 2024/2025 and it is contended that in view of the said order, Written Statement could not be taken on record.
3. Learned counsel for petitioner/plaintiff fairly admits that judgment under Order VIII Rule 10 CPC is not a matter of right of the plaintiff. However, the impugned order has been challenged by petitioner/plaintiff because implicitly the Written Statement has been taken on record despite order dated 17.10.2025 in CM(M) 2024/2025, which petition is pending before this Court till date.
4. It appears that till date, the Written Statement has not been taken on



record. In this regard, by way of paragraph 5 of the impugned order, the learned trial court read the Written Statement subject to costs only to the limited extent of treating the Written Statement as reply to application under Order VIII Rule 10 CPC. It appears that in paragraph 10 of the impugned order, opportunity to file replication was allowed due to inadvertence.

5. After some discussion, learned counsel for petitioner/plaintiff seeks permission to withdraw this petition. As requested, the petition and the accompanying application are dismissed as withdrawn.

GIRISH KATHPALIA, J

DECEMBER 8, 2025/dr