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

+ **CM(M) 2/2025**

RAJEEV SHARMA

.....Petitioner

Through: Mr. Paritosh Budhiraja and Ms.
Larika Khandelwal, Advocates.

versus

RAKESH CHANDER MISRA & ORS.

.....Respondents

Through: Mr. Rishabh Kapur and Mr. Tanmay
Gupta, Advocates for R-1.

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

% **07.01.2025**

CM APPL. 48/2025(Exemption)

Allowed, subject to all just exceptions.

Application stands disposed of.

CM(M) 2/2025 & CM APPL. 47/2025 (Stay)

1. The petition impugns the order dated 07.09.2024 passed by the learned Trial Court in case bearing no. CSDJ17700/2016 titled as Rajeev Sharma Vs. Rakesh Sharma and Ors.
2. Respondent no.1 filed a suit for declaration, possession and mandatory injunction against the petitioner and respondent nos. 2 and 3.
3. The respondent no.1 filed an application under Order VI Rule 17 CPC which was partially allowed vide order dated 16.12.2023 granting the respondent four weeks time to file the amended plaint.
4. Learned counsel for the petitioner submits that the deadline to file the



amended plaint expired on 13.01.2024. However, the respondent e-filed the amended plaint on 17.02.2024 and hard copy submitted on 06.04.2024.

5. The petitioner filed an application for taking the amended plaint off the record but the said application was dismissed by the learned Trial Court vide order dated 07.09.2024 and the right of the petitioner to file the written statement was closed on the ground that written statement was not filed within the stipulated period of 90 days.

6. Learned counsel for respondent no.1 submits that Trial Court has ample powers under Order VI Rule 18 CPC and Section 148 CPC to extend the time for filing the amended plaint, and therefore, there is no infirmity in the impugned order.

7. He further submits that the trial court rightly closed the petitioner's right to file written statement, as it was not filed within the period prescribed for the same.

8. During the course of the arguments, the learned counsel for the petitioner fairly states that he does not intend to challenge the order vis-a-vis taking on record, the amended plaint. However, he seeks one opportunity to file the written statement, which according to him, could not be filed as he was bonafidely contesting the application filed by him for taking the amended plaint off the record.

9. The period of limitation provided for filing the written statement is not mandatory but directory in nature. It would be appropriate if the disputes between the parties are decided on merits.

10. Keeping in view the entire circumstances, and in the interest of justice, the order dated 07.09.2024 is set aside partially, thereby granting only one opportunity to the petitioner to file the written statement within a



period of four weeks subject to payment of cost of Rs.5000/- to respondent no. 1.

11. The petition accordingly stands disposed of in terms of the aforesaid order.

RAVINDER DUDEJA, J

JANUARY 7, 2025/ib