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

+ CM(M) 4/2025

HIMANSHU ENTERPRISES

.....Petitioner

Through: Mr. Pramod Gupta, Advocate.

versus

B.L TEXTILE CO.

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

% **07.01.2025**

CM APPL. 112/2025 (Exemption)

Allowed, subject to all just exceptions.

Application stands disposed of.

CM(M) 4/2025 & CM APPL. 111/2025 (Stay)

1. The petition impugns the order dated 18.01.2024 & 29.04.2024 passed by the learned Trial Court.
2. Petitioner is the defendant in the suit for recovery filed by the respondent before the Commercial Court.
3. Petitioner did not file the written statement within the stipulated period of 30 days. He even did not file any application for seeking extension of time.
4. As such, vide order dated 18.01.2024, his right to file the written statement was closed. Since 120 days were yet to elapse, the learned Trial Court granted the liberty to the petitioner to move an appropriate application for seeking condonation of delay in filing the written statement within the window period.



5. The learned Trial Court framed the issues and listed the matter for Ex-parte evidence for 29.04.2024.
6. In the meanwhile, the petitioner filed an application under Order 9 Rule 13 CPC for setting-aside the impugned order and for providing the copy of amended plaint. It appears that said application is still pending for disposal.
7. On 29.04.2024, the respondent did not produce any evidence and, therefore, the Court had granted him adjournment to lead the plaintiff evidence, subject to cost of Rs.5,000/-.
8. So far as the order dated 29.04.2024 is concerned, the same is not adverse to the petitioner.
9. The learned counsel for the petitioner submits that petitioner could not file the written statement as he was not provided the copy of amended plaint with summons. However, he fairly admits that he did not file any application before the Trial Court for the grant of extension of time for filing the written statement on this ground.
10. During the course of arguments, the learned counsel seeks permission to withdraw the present petition stating that he would first file an appropriate application before the learned Trial Court for grant of an opportunity to file the written statement on the ground that he was not served with the copy of the amended plaint.
11. The statement of the learned counsel for the petitioner is taken on record and petition is dismissed as withdrawn.

RAVINDER DUDEJA, J

JANUARY 7, 2025/sky