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* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of Decision: 27th March, 2026***+ **CM(M) 1468/2023 & CM APPL. 46794/2023****ANISHA JAIN**

.....Petitioner

Through: Advocate. (appearance not given)

versus

H.T. MEDIA SOLUTION

.....Respondent

Through: Mr. Madhur Dhingra and Ms. Harleen Dhingra, Advs.

CORAM:**HON'BLE MR. JUSTICE RAJNEESH KUMAR GUPTA****ORDER (Oral)****Rajneesh Kumar Gupta, J.**

1. This hearing has been conducted through hybrid mode.
2. The present petition has been filed on behalf of the petitioner/defendant under Article 227 of the Constitution of India, 1950 read with Section 151 of Code of Civil Procedure, 1908, assailing the order dated 19th July, 2022 and 14th February, 2023 passed by the learned Trial Court in case bearing No. CS (COMM) 284/2022.
3. At the outset, learned Counsel for the petitioner submits that he is pressing the present petition only in respect of the impugned order dated 19th July, 2022, whereby the defence of the petitioner has been struck off.
4. Heard. Record perused.
5. Learned Counsel for the respondent/plaintiff has filed copies of the order sheets of the trial court and the same are taken on record.



6. Learned Counsel for the petitioner has argued that the learned trial court has passed the impugned order dated 19th July, 2022 on the basis of surmises and conjectures. It is contended that as the petitioner was not supplied with a copy of the plaint along with the annexures and therefore, petitioner was unable to file the written statement within a stipulated time.

7. *Per contra*, learned Counsel for the respondent has argued that there is no infirmity in the impugned order and the present petition has been filed only to delay the trial proceedings. Accordingly, it is prayed that the petition be dismissed.

8. Order dated 28th April, 2022 of the trial court reads as under:

*“Present: Sh. Nitin Raj, Ld. Counsel for Plaintiff.
None for Defendant.*

As per report of Process Server, defendant was served by e-mail on 23.03.2022.

Parties are to file pleadings as per order dated 15.03.2022.

Fixed 27.05.2022 for further proceedings.”

Order dated 27th May, 2022, of the trial court reads as under:

*“Present: Sh. Ankur Yadav, Ld. Junior Advocate for Plaintiff.
None for Defendant.*

Defendant was served by e-mail on 23.03.2022.

Parties were to file pleadings as per order dated 15.03.2022.

No written statement filed by defendant till date.

Fixed 19.07.2022 for further proceedings.”

Impugned Order dated 19th July, 2022, reads as under:



*“Present: Sh. Nitin Raj, Ld. Counsel for Plaintiff.
Sh. Vijay Kumar, Ld. Counsel for Defendant
has filed his vakalatnama.*

Heard. Perused.

Defendant was served by e-mail on 23.03.2022.

*Parties were to file pleadings as per order dated
15.03.2022.*

*No written statement has been filed by defendant till
date.*

*No application has been filed on behalf of defendant for
seeking extension of 30 days time period for filing the
written statement.*

Defence of defendant is struck off.

Fixed 22.08.2022 for plaintiff evidence.”

9. The Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 bringing in their wake certain amendments to the Code of Civil Procedure.

In Order 8 Rule 1, a new proviso was substituted as follows:

“Provided that where the defendant fails to file the written statement within the said period of thirty days, he shall be allowed to file the written statement on such other day, as may be specified by the court, for reasons to be recorded in writing and on payment of such costs as the court deems fit, but which shall not be later than one hundred and twenty days from the date of service of summons and on expiry of one hundred and twenty days from the date of service of summons, the defendant shall forfeit the right to file the written statement and the court shall not allow the written statement to be taken on record.”



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10. It is evident from the record that the petitioner has been served on 23rd March, 2022. Despite service, no one appeared on behalf of the petitioner on 28th April, 2022 and 27th May, 2022. On 19th July, 2022, when Counsel for the petitioner has appeared, no plea was taken by him before the learned trial court regarding non-supply of the plaint and annexures. The said plea as taken by the petitioner is an afterthought as it has been taken only after the defence was struck off.

11. The petitioner has not filed the written statement within a period of 30 days as provided under the aforesaid order i.e., Order 8 Rule 1. The petitioner has not filed any application and has also not made any request to the trial court seeking extension of time in filing the written statement. Accordingly, this Court does not find any infirmity in the impugned order dated 19th July, 2022 which has been passed in accordance with law, and the same is upheld. The present petition is disposed of as being devoid of any merits. Pending application (s), if any, also stand disposed of.

RAJNEESH KUMAR GUPTA, J

MARCH 27, 2026/sds/tp