
(2022) 12 DEL CK 0062

In the Delhi High Court

Case No : Civil Miscellaneous (Main) No. 1205 Of 2022, Civil Miscellaneous Application No. 48371 Of 2022

Managing Committee The Delhi University Cooperative Store
Ltd & Anr.

APPELLANT

Vs

Asian Enterprises & Anr

RESPONDENT

Date of Decision : 08-12-2022

Acts Referred:

Citation : (2022) 12 DEL CK 0062

Hon'ble Judges : Tushar Rao Gedela, J

Bench : Single Bench

Advocate : Mohammad Ali, Manoj Goswami, Prachi Gupta, Randhir Kumar

Final Decision : Disposed Of

Judgement

Tushar Rao Gedela, J

1. With the consent of parties, the present petition is taken up for final disposal.
2. Learned counsel appearing for the petitioner impugns the order dated 15.09.2022, whereby the right to file the written statement on behalf of defendant Nos. 1 to 3, before the learned Trial Court, was forfeited.
3. Vide the same order the learned Trial Court had listed the matter further for plaintiff's evidence and simultaneously, permitted the defendants to cross examine the witnesses on very limited rights.
4. Mr. Randhir Kumar, learned counsel appears for the respondents submits that subsequent to the impugned order, the petitioner herein filed an application seeking extension of time to take the written statement on record, which is still pending adjudication and, no orders have been passed thereon.
5. Learned counsel appearing for the respondents submits that he would have no objection, if the pending application is taken up for hearing and decided on its own merits. Learned counsel appearing for the petitioner is also agreeable to

that.

6. In view the above, the impugned order, whereby the learned Trial Court has directed forfeiture of the rights of the petitioners to file their written statement is set aside.

7. Since it is informed that on the date when the impugned order was passed, the statutory time period for condonation of delay in filing the application under the provisions of Commercial Courts Act, 2015, was still open to the petitioners and coupled with the fact that an application for seeking extension of time was also filed subsequently and is pending, this Court is of the opinion that the interest of justice would be sub-served in directing the learned Trial Court to take up the application seeking extension of time for filing the written statement and decided on its own merits.

8. It is further informed that the next date before the learned Trial Court is fixed for 12.12.2022. It is requested that the learned Trial Court takes up the application seeking extension of time and decide the same on its own merits, in accordance with law.

9. In view of the above directions, the petition is allowed and disposed of, subject to costs of Rs. 10,000/- to be paid to the respondent by the petitioner within two days. This is without prejudice to the rights and contentions of the petitioners.

10. Petition is disposed of in the above terms.