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

+ **CM(M) 398/2023**

ANJANA SINGH

..... Petitioner

Through: Mr. Vinay Rathi, Advocate.

versus

JINU PRAKASH

..... Respondent

Through: Mr. Vikas Chadha, Mr. Anil Kumar
and Mr. Rahul Saini, Advocates.

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% **21.11.2023**

CM APPL. 59578/2023

1. This is an application filed by the Applicant/Petitioner seeking reduction in the costs of Rs. 30,000/- undertaken to be paid by her vide order dated 17.10.2023.

2. Learned Counsel for the Petitioner states that there has been a change of counsel and he is instructed to state that the Petitioner had not consented to the payment of costs of Rs. 30,000/- on 17.10.2023.

2.1. He states, however, the Petitioner has acted upon the liberty granted vide order dated 17.10.2023 and has filed her written statement along with her affidavit of admission/ denial of document within two (2) weeks i.e., on 31.10.2023, before the Trial Court.

2.2. He states that considering the fact that the Petitioner herein is a single mother, therefore, through this application it is prayed for the cost imposed



vide order dated 17.10.2023 be waived or reduced.

3. In reply, learned counsel for the Respondent/Non-applicant who has entered appearance on advance service states that no service of written statement or the affidavit of admission/denial has been effected on the Respondent till date. He opposes the relief sought by the Petitioner in the present Application.

3.1. He states that, in fact, the Petitioner has defaulted in making payment of rent of the suit premises for the month of November, 2023 which was due on 17.11.2023.

4. This Court has considered the submission of the parties. This matter was taken upon by Court (first) on 10.10.2023 when the Petitioner and the Respondent were both present in person.

4.1. On the aforesaid date, after hearing arguments of the both the parties, Petitioner had stated before this Court that she would like to consider the option of vacation of the premises. She stated that she is ready and willing to surrender the premises i.e., Flat No-15, B-47/2, Major Bhol Ram Enclave, Village Pochampally Pur, Sec-23, Dwarka, New Delhi-110077 ('suit premises') to the Respondent within a period of six (6) months, and put an end to the litigation.

She stated that she would also like to consider the option of availing of proceeding with this petition for seeking condonation of delay in filing her written statement before the Trial Court, subject to payment of legal costs to the Respondent.

4.2. Accordingly, to enable the Petitioner to consider the option, with the consent of the parties on 10.10.2023, the matter was adjourned to 17.10.2023.



5. On 17.10.2023, when the matter was taken up for hearing, both the Petitioner and Respondent were present in Court along with their respective Counsel.

5.1. On the aforesaid date, Petitioner instructed her Counsel to state that she does not wish to vacate the suit premises and would like to contest the matter on merits and thereafter agreed to pay legal costs of Rs. 30,000/- to the Respondent to compensate for the delay caused of 164 days in filing the written statement. The legal costs were also for compensating the Respondent for defending the petition.

5.2. The Petitioner who was present in Court specifically instructed the counsel for the Petitioner to agree with the said order being passed by this Court on 17.10.2023.

6. In view of the proceedings, which transpired before the Court on 10.10.2023 and 17.10.2023, this Court is of the considered opinion that assertions made by the Petitioner in her Application are incorrect and contrary to what transpired before this Court. The statement in the Application that her Counsel did not represent her effectively is incorrect.

7. In fact, it is unfortunate that Delhi State Legal Services Authority ('DSLISA') has permitted the Petitioner herein to make those assertions against the previous counsel, who was also appointed by DSLISA.

8. The order which is sought to be modified was passed on 17.10.2023. The Petitioner acted upon the said order and is stated to have filed her written statement before the Trial Court on 31.10.2023. The present application seeking waiver of costs has been filed on 08.11.2023 and was first listed today. The contents of the application are clearly an afterthought to not comply with the directions of this Court and the same cannot be



countenanced.

9. This Court, therefore, finds no merit in this Application and, accordingly, stands dismissed.

10. In addition, the Order dated 17.10.2023 passed by this Court was clear in as much as it recorded that last opportunity is being granted to the Petitioner herein and in case the Petitioner fails to comply with the said order, the order of the Trial Court dated 21.01.2023 which was assailed in this petition by the Petitioner shall come into operation.

11. Accordingly, it is clarified that in view of the non-compliance by the Petitioner herein, the order of the Trial Court dated 21.01.2023 shall now operate between the parties.

MANMEET PRITAM SINGH ARORA, J

NOVEMBER 21, 2023

Aks/ms

[Click here to check corrigendum, if any](#)