



2025:DHC:6005



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of Decision: 22nd July, 2025***+ **CM(M) 1310/2025 & CM APPL. 43454-43455/2025****AJAY KUMAR**

.....Petitioner

Through: **Ms. Aashna Arora and Mr. Tejas
Batra, Advocates**

versus

LOKESH KUMAR @ LOKESH & ANR.

.....Respondent

Through:

CORAM:**HON'BLE MR. JUSTICE MANOJ JAIN****JUDGMENT (oral)**

1. Petitioner is defending a suit for partition and injunction.
2. Admittedly, the defence of the petitioner (defendant no. 1 before the learned Trial Court) was struck off on 17.11.2023 as he did not even care to file written statement. Fact remains that despite the fact that his right to file written statement had been closed and his defence had been struck off, he kept on appearing before the learned Trial Court and was even permitted to cross-examine PW1 on legal aspects.
3. He never, in the interregnum, sought recalling of said order or challenged the same anywhere. When the aforesaid suit reached the stage of final arguments, petitioner (defendant no. 1) moved an application under Order VIII Rule 1A (3) r/w Section 151 CPC seeking restoration of his defence and taking on record certain documents. By virtue of aforesaid application, he made reference to various documents which he wanted to place on record. However, in the entire application, he did not whisper



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anything as to why he did not file written statement within the prescribed period of time and he, baldly, prayed that his defence be restored.

4. Learned Trial Court has dismissed his such application, while holding that there was no justifiable ground assigned by him for recalling order dated 17.11.2023.

5. Such order is under challenge.

6. In such a peculiar situation, when the case has already reached the stage of final arguments, it will not be appropriate to give any indulgence to the petitioner, who, for the reasons best to known to him, did not make any immediate endeavour by filing any application or petition seeking recall of the order dated 17.11.2023 and rather continued to participate in the proceedings of the suit.

7. This Court does not find any reason, much less a compelling one, to interfere with the impugned order dated 17.11.2023 which does not even disclose any illegality or perversity. The petitioner himself is to be blamed for his miseries as he did not take any step in the intervening period and seems to have woken up when the case is at the stage of final arguments.

8. The present petition is accordingly dismissed.

(MANOJ JAIN)
JUDGE

JULY 22, 2025/dr/shs