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

+ **CM(M) 4129/2024**

M/S OM STATIONERS & ANR.

.....Petitioners

Through: Mr. Dhan Mohan, Ms. Tanu B.
Mishra and Mr. Ravi Mishra, Advs.

versus

M/S NEW SARTAJ COPY MANUFACTURERS

.....Respondent

Through: Mr. M. Arshyan, Advocate.

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

% **20.12.2024**

CM APPL. 74860/2024 (EXEMPTION)

Allowed, subject to all just exceptions.

The application stands disposed of.

CM APPL. 74861/2024 (delay 61 days in re-filing of petition)

For the reasons stated in the application, delay of 61 days in re-filing the petition stands condoned.

The application stands disposed of.

CM(M) 4129/2024 & CM APPL. 74859/2024 STAY

1. Petitioners are the defendants in the suit under Order XXXVII CPC for recovery of Rs.6,89,236/-.
2. Vide impugned order, the learned Trial Court granted leave to defend in favour of the petitioner subject to deposit of 50% of the suit amount



excluding interest.

3. Learned counsel states that the suit per se is not maintainable inasmuch as it has been filed by M/s New Sartaj Copy Manufactures through its authorized signatory Md. Sartaj and the learned Trial Court itself admits in Para 10 of the impugned order that it is not specified as to what the legal status of the firm is, whether it is a proprietorship firm, partnership firm or a company.
4. Learned counsel for the respondent states that respondent has already filed an application under Order VI Rule 17 CPC before the learned Trial Court. However, admittedly, such application has been filed after the deficiency was brought to the notice of the court by the petitioners.
5. Issue notice. Learned counsel on behalf of the respondent appearing on advance notice accepts notice.
6. Learned counsel for the petitioners has prayed for grant of stay for payment of 50% of the suit amount.
7. Let the petitioners deposit 50% of the suit amount as directed by the learned Trial Court but release of the said amount shall be subject to further orders passed by this Court.
8. List on 23.04.2025.

RAVINDER DUDEJA, J

DECEMBER 20, 2024/ib