

01.6.2018

Present:- Shri Sudhir Gupta - Ld. Counsel for the plaintiff
Shri Prateek - Proxy Counsel for D-1
Shri Prashant Sharma - Proxy Counsel for defendants No. 2-6
Ms. Samar Jahan - Ld. Counsel for the defendants No. 7 and 8
alongwith Shri Subhash Chand Sharma - MTI

Shri Hemant Gupta for BSES/D-9

Reply to the applications of the defendants under Order 8 Rule 1 CPC filed.

It is observed that defendant No. 3 has not filed his WS till date. Hence, his right to file WS is hereby closed. Arguments on the said applications heard.

WS has been filed by defendant No. 9 beyond a period of 30 days but within 90 days and it is submitted that since there was a long list of electricity connections mentioned in the plaint, therefore, it took time to trace the record. Hence, the delay in filing the WS is hereby condoned on behalf of defendant No. 9.

WS has been filed by defendant No. 7 and 8 beyond a period of 90 days and there is a delay of 12 days. It is submitted that the records could not be traced in respect of the suit property, hence the delay. The same is also condoned and the WS is taken on record.

The main objection of Ld. Counsel for the plaintiff is in respect of the delay in filing of WS on behalf of defendants No. 1, 2 and 4-6. The reasons stated by the defendants No. 2-6 in the applications explaining the delay is that the office of Ld. Counsel was being shifted and the file got misplaced. Ld. Counsel for the plaintiff submits that neither any date of the shifting of the office or the date when the file was traced, has been mentioned in the

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application . Ld. Counsel for the plaintiff has relied upon the judgment in Sudhir Yadav Vs. Surjeet Yadav 2017 (6) AD Delhi 62, wherein on similar grounds the right to file WS was rejected. However, the facts of each and every case are different. I do not intend to divulge with the facts of the present suit but considering the nature of the dispute and to decide the litigation on merits, the delay in filing the WS on behalf of the defendants No. 2, 4 to 6 is condoned subject to cost of Rs.15,000/- to be shared by the said defendants.

Similarly, the delay on part of defendant No. 1 is also condoned subject to cost of Rs.5000/-.

WS of the defendants are taken on record. Put up on **31.8.2018** for payment of cost, replication to the WS, admission/denial of documents and framing of the issues on Parties are directed appear in person with original documents on the next date.

Ld. Counsel for the defendant No. 7 and 8 seek further time to file reply to the application of the plaintiff U/S 151 CPC seeking directions for demolition of the property for which orders have already been issued by the MCD as stated by the Ld. Counsel. Let reply/report be filed on the next date.

Put up for the said purpose now on **31.8.2018**.

(Sanjay Sharma-I)
Addl. District Judge-02(East)
Karkardooma Courts- 01.6.2018