

20.04.2023

Present: Shri Yuganshu Sharma, ld. counsel for plaintiff a/w plaintiff.
Shri Vivesh Kumar, ld. counsel for D1 to 6.
None on behalf of defendant no. 7 & 8.

W.S. a/w application for condonation of delay in filing the W.S on behalf of D1 to 6 and an application u/o 7 rule 11 r/w 151 CPC on behalf of D1 is filed on 18.03.2023. Copy supplied.

Arguments on the application for condonation of delay in filing the W.S. heard.

It is submitted by ld. counsel for defendant that defendant no. 1 & 3 are senior citizen and they were out of station for some time. Thereafter, the defendants were to file the written statement jointly, but it could not happen mutually. Hence, the defendants have prepared their separate written statement through their counsel. There is a delay of 40 days in filing the written statement. The delay in filing the W.S. is neither not intentional. It is further submitted that a serious prejudice shall be caused to the defendants in case the present application is not allowed. The delay in filing the written statement is bonafide and the defendants have no malade intention in moving the present application. Hence, it is prayed the present application be allowed.

Ld. counsel for plaintiff has vehemently opposed the present application. It is submitted by ld. counsel for plaintiff that there is huge delay in filing the written statement. It is also submitted that defendants did not file the W.S. deliberately and intentionally. It is also submitted that written

statement was not filed only to delay the proceedings. It is therefore requested that the present application be dismissed.

Heard. Record perused and considered.

It is pertinent to mention that present suit was filed on 06.12.2022 and summons were issued to the defendants. Defendant no. 1 to 6 have appeared through their ld. counsel vide order dated 23.02.2023. Written statement was not filed within stipulated period of 30 days. Matter is at the initial stage. Defendants shall suffer loss and injury if the present application is not allowed. It is settled law that rules and procedures are the handmaid of justice. Procedural and technical hurdles shall not be allowed to come in the way of the court while doing substantial justice. If the procedural violation does not seriously cause prejudice to the adversary party, courts must lean towards doing substantial justice rather than relying upon procedural and technical violation. We should not forget the fact that litigation is nothing but a journey towards truth which is the foundation of justice and the court is required to take appropriate steps to thrash out the underlying truth in every dispute. In view of above as well as considering the facts and circumstances of the present case, the application for condonation of delay in filing the W.S. is allowed subject to cost of Rs.10,000/- to paid by D1 to 6 to the plaintiff on NDOH.

The written statement on behalf of D1 to 6 is taken on record.

Put up for reply, if any,/ arguments on above said application and also for completion of pleadings, admission & denial of documents and framing of issues on 06.07.2023.

(Rajesh Kumar)
Addl. District Judge-03
East/KKD Courts/Delhi
20.04.2023