

06.07.2023

Present: Shri Yuganshu Sharma, ld. counsel for plaintiff.
Plaintiff in person.
Shri Vishesh Kumar, ld. counsel for all the defendants.

W.S. on behalf of defendant no. 7 & 8 alongwith an application for condonation of delay in filing the W.S. was filed on 05.06.2023. Copy of the same is supplied to plaintiff.

Arguments on the application for condonation of delay in filing the W.S. on behalf of D7 & 8 heard.

Order on IA for condonation of delay in filing the W.S. on behalf of D7 & D-8.

It is submitted by ld. counsel for defendant no. 7 & 8 that vide order dated 06.12.2022, summons issued to defendants and same were served on the defendants on 07.01.2023. The copy received from the process server was lost at their house, hence, they did not appear before the court. On 03.06.2023, the defendant no. 1 & 2 met the answering defendants and during their meeting, it transpired that the present case is pending before the court, but there is no appearance on behalf of answering defendants. The defendant no. 7 & 8 requested the defendant no. 1 & 2 to provide a copy and also to get them introduced with their counsel. Thereafter the defendants contacted the counsel and written statement was prepared. There is a delay of 119 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 mala fide 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 more than 119 days. 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 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.3000/- to paid by D7 & 8 to the plaintiff on NDOH.

The written statement on behalf of D7 & 8 is taken on record.

Ld. counsel for plaintiff submits that he will the replication within one month with advance copy of the same to the defendants.

Put up for completion of pleading, admission & denial of documents and framing of issues on 08.09.2023.

(Rajesh Kumar)
Addl. District Judge-03
East/KKD Courts/Delhi
06.07.2023