

CS191/23  
MAMTA Vs. PAWAR KUMAR GUPTA

03.04.2024

Present: Sh. Sikander Khan, ld. counsel for plaintiff is connected through VC.  
Sh. Abhay Sagar, ld. counsel for defendant no. 1.  
None for defendant no. 2 to 6 (defence struck off vide order dated 26.02.2024).

Vide order dated 26.02.2024, two weeks time was granted to the defendant no. 1 to file the WS subject to cost of Rs.1000/- to be paid to plaintiff. The WS not filed within the time given. The WS has been filed today in the court along with reply to the application under Order XXXIX Rule 1 & 2 CPC.

An application under Order VIII Rule 1 CPC moved on behalf of defendant no. 1 for condonation of delay in filing the WS. It is stated that there is delay in filing the WS since defendant no. 1 was not keeping well. A discharge summary dated 03.07.2023 has been filed on behalf of defendant no.1 along with some OPD certificates issued last of 10.02.2024.

These certificates are not the ground for condonation of delay in filing the WS, yet considering the fact that the present suit is for the partition and for complete adjudication of the *lis* between the parties, it is necessary to take the WS of defendant no.1 on record, the same is taken on record subject to further cost of Rs.3000/- to be paid to the plaintiff.

Another application moved under Section 151 CPC by defendant no. 1 for waiver of cost which was imposed on the last date of hearing.

Heard. There is no ground for waiver of cost. The application is dismissed.

Cost be paid on the NDOH.

The extra copy of WS is taken on record. Plaintiff is at liberty to take the same from the record against receiving.

Replication be filed within two weeks with advance copy to the opposite party.

Put up for completion of pleadings/admission-denial of documents/arguments on interim application/framing of issues on 15.05.2024.

(KAPIL KUMAR)  
ADJ-01/NE/KKD/DELHI  
03.04.2024 sb