

CS. No. 118/18

Sh. Amit Kumar @ Shyam Singh Vs. Sh. Manish Kumar Sharma
and Ors.

12.12.2018

Present: Mr. R. K. Singh, Ld. Counsel for plaintiff.
None for D-1 & D2.
Mr. O. P. Aggarwal, Ld. Counsel for defendant no.
3 and 4.
Mr. Nishikant Sharma, DCD office of the District
Magistrate, Shahdara on behalf of defendant no. 5
None for remaining defendants.

Vakalatnama on behalf of defendant no. 3 and 4 filed.

Be taken on record.

Reply to the applications under Order VIII Rule 1
CPC & under Order VII Rule 11 filed by plaintiff. Replication to
WS of D-3 & D-4 also filed. Copy supplied.

Ld. Counsel for plaintiff submits that service of defendant no.
1 and 2 has been effected by way of publication in the newspaper
“Veer Arjun” on 28.11.2018. None has appeared for D-1 & D-2
despite repeated calls.

WS be filed by D-1 & D-2 within stipulated period with
advance copy to the plaintiff.

An application under Order VIII Rule 1 CPC filed by D-3 &
D-4 is pending adjudication.

Arguments heard on aforesaid application. Case file perused.

Plaintiff has strongly opposed stating that present application is
misuse of law; defendants want to waste the precious time of court and no

document in support of contention made in the application has been placed on record nor has been supplied to the plaintiff; the entire averments are false and frivolous; defendant no. 3 and 4 have not mentioned the period of delay in filing the WS, hence the application is liable to be dismissed. However, he has submitted today in the court that as the delay was occasioned due to Ld. Counsel's operation, so he has no objection in case the present application is allowed subject to cost.

Even otherwise, it is well settled that rules of procedure are hand maids of justice. Further more, in the facts of the case, the plaintiff can be compensated by costs for the delay occasioned.

In the present application, it is submitted that the delay was occasioned as Ld. Counsel for defendant no. 3 & 4 has been operated for Prostrate and was on complete rest for about a month or more.

In the facts of the case, the delay in filing of the WS by D- 3 & D-4 is condoned subject to payment of cost of Rs. 2,000/- by the defendant no.3 & 4 to the plaintiff. WS of D-3 & D-4 is taken on record subject to payment of cost. Application stands disposed off.

Defendant no. 5 is at liberty to proceed as per law.

Put up for arguments on pending application on
27.02.2019.

(Vineet Kumar)

Additional District Judge-01
(Shahdara)Karkardooma
Courts, Delhi/12.12.2018