

IN THE COURT OF Ms. SHIVALI BANSAL,
Ld. ADJ-03, NORTH DISTT, ROHINI COURTS, DELHI.

CS No. 2125/16
Geeta Rana
Vs.
Suresh Rana

ORDER

02.06.2022

1. Vide this order, the application of the defendant/counter claimant under order 8 Rule 10 is disposed off.

2. Ld. Counsel for the defendant/counter claimant submits that the plaintiff has filed the WS to the counter claim after the gap of 7 months and therefore the same should not be taken on record and the defence of the plaintiff/non counter claimant should be stucked off. He further submits that defendant has filed its counter claim on 18.08.2018 alongwith the written statement and the copy of the same was supplied to the opposite party on 27.11.2018. he states that on 27.11.2018, the plaintiff did not file the reply to the counter claim and the matter was adjourned to 27.03.2019, when the plaintiff/non counter claimant has filed its WS.

3. *Per contra*, Ld. Counsel for the plaintiff/non counter claimant argues that as per order 8 Rule 6 A(3) the plaintiff/non counter claimant can file the written statement within the period fixed by the court. As per order dated 27.11.2018, this court has directed the plaintiff/non counter claimant to file replication before the NDOH i.e. 27.03.2019, with advance copy to the Ld. counsel for the defendant/counter claimant.

Heard. Record perused. Considered.

4. This court is of the considered view that on perusal of the ordersheets dated 27.11.2018 it is found that, the direction given to the plaintiff/non counter claimant was to file WS before the NDOH, however, the Ld. Counsel for plaintiff/non counter claimant has filed the same on the date of hearing i.e., 27.03.2019. It cannot be said that there is an inordinate delay in filing of the WS. Although, the WS was not accompanied with an application under Order 8 Rule 1 for condoning the delay in filing the WS, these technical hurdles should not come in the way of doing substantive justice between the parties. The court should not be hypertechnical in its approach so as to render the justice delivery system nugatory.

5. Accordingly, the application of the defendant under Order 8 Rule 10 is dismissed.

Shivali Bansal
ADJ-03, Rohini Courts
North District, Delhi
02.06.2022