

CS No. 60116/16

Yashpal Yadav Vs. Surender Kumar Arora

17.10.2022

Present: Mr. Vikesh Rathi, Ld. Counsel for the plaintiff.

Ms. Jaspreet Kaur, Ld. Counsel for the defendant.

Matter is at the stage of arguments on the application of defendant under Section 151 CPC for recalling of order dated 09.08.2019 and 28.09.2019.

Arguments heard on the application of the defendant for recalling of order dated 09.08.2019 and 28.09.2019 as well as an application under Section 151 CPC seeking condonation of delay.

Be put up for orders at 4:00 PM.

**Shivali Bansal
ADJ-03, Rohini Courts
North District, Delhi
17.10.2022**

AT 4:00 PM

Present: None.

Perused the application of defendant under Section 151 CPC for recalling of order dated 09.08.2019 and 28.09.2019 as well as for condoning the delay in filing the application filed on behalf of the defendant.

Ld. Counsel for the defendant has argued that on the

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aforesaid dates, the right of the defendant to cross examine PW-1 to PW-3 was closed. He submits that since the defendant was not able to pay the fees of the advocate, the concerned advocate did not appear and it is settled proposition in law that due to the fault of the advocate, the parties should not suffer.

Ld. Counsel for the plaintiff argues that non-payment of fees is not fault of the advocate, in fact, it is fault of the party and therefore, the application of the defendant be dismissed. He also submits that the right of the defendant to lead defence evidence is also closed and allowing the application would further delay the matter.

Heard. Record perused.

The application of the defendant under Section 151 CPC for recalling of order dated 09.08.2019 and 28.09.2019 as well as for condoning the delay in filing of the application is allowed subject to a cost of Rs. 3000/- to be paid to the counsel for the plaintiff.

It is clarified that the defendant is required to cross examine PW-1 to PW-3. On the NDOH only, no further opportunity shall be given to the counsel for the defendant.

The plaintiff is directed to call PW-1 to PW-3 on the NDOH for the their cross examination.

Be put up for cross-examination of PW-1 to PW-3 on **24.11.2022.**

**Shivali Bansal
ADJ-03, Rohini Courts
North District, Delhi
17.10.2022**