

02.11.2022

Present : Sh. Sidhart Khandewal, ld counsel for plaintiff.

Sh. Adamay Pal, ld counsel for defendant with
defendant.

Counsel for the plaintiff stated that he is ready to
make submissions on the application without any formal reply.

Submissions are heard on application under Order 8
Rule 1 CPC.

Put up for orders on the application for post lunch
session.

At 03:15 PM

Present: None.

As per case record, summons returnable for
01.08.2022 to the defendant were ordered to be issued by the
Predecessor of this court vide order dated 24.02.2022. On the
adjourned date proxy counsel for defendant appeared filed the
present application under Order 8 Rule 1 CPC seeing
condonation of delay in written statement. The defendants were
served on 15.03.2022 and written statement was filed on their
behalf on 10.06.2022.

It is submitted on behalf of defendants that when the
defendants received the summons of the present suit they came
under the impression that they have received another copy of the

summons of another suit filed by the plaintiff against them bearing CS No. 342/2021 as such they did not contact their counsel on time for preparation of written statement. It is averred that in the month of June 2022 when defendants came to office of their counsel and produce copy of summons delivered to them they came to know that another case is filed against them. It is claimed that defendants being layman could not differentiate between both the matters as they have similar titles and pending in the same court. It is claimed that the delay in neither intentional nor deliberate.

On the other hand the application is opposed with the submissions that the summons were duly served to the defendants with the copy of plaint and the defendants could have know about the filing of the another suit by reading the plaint and documents. It is submitted that the defendants have concocted a false story only to delay the trial.

It is settled law that a liberal approach be taken by the court while dealing with the application seeking condonation of delay and the efforts may be made to decide the lis between the parties on merits especially in circumstances where opposite party may be compensated for the delay. Considering the totality of the facts, where the written statement although has not been filed within 30 days from the date of service of summons but has been filed prior to very first date of hearing, a lenient view is taken and the delay in filing the written statement is condoned and written statement as filed on 10.06.2022 is taken on file subject to payment of compensation of Rs. 5000/- by the defendants.

Put up for replication if any, filing of documents in original, their admission/denial, settlement of issues and payment of compensation on **15.02.2023**.

(SUNIL CHAUDHARY)
ADJ-04, North West,
Rohini Courts, Delhi
02.11.2022