

M/s S. G. Engineers Vs. Mukul Sharma & Anr.
CS no. 486/17

19-12-2017

Present: Counsels for the parties

Submissions on the application of the defendant u/o 8 Rule 1
CPC heard.

Put up for post-lunch for orders.

(SUNIL CHAUDHARY)
ADJ-03 (N/W) ROHINI COURTS
DELHI: 19-12-2017

4:30 pm

Present: None.

By way of present application, the defendant no. 1 is seeking condonation of delay in filing the written statement on the submissions that the summons of the case were received by one of his employees Sh. Jai as D-1 was out of India in the month of June and thereafter too he has not attended the office and the employee who received the summons went to his village due to unavoidable circumstances and did not come back for few months and did not supply the copy of the summons and when he returned in the first week of November 2017 and met the D-1, supplied the copy of the suit then, he contacted his lawyer. Hence, the written statement could not be filed in time.

The application is opposed on behalf of plaintiff with

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submission that the application is neither supported with the affidavit of said so-called employee Mr. Jai nor the details in respect of dates when the summons were supplied by him to D-1 nor any documents that he was not attending his office are filed. It is submitted that as defendant has not shown any reason for non-filing the written statement within prescribed period, he is not entitled for condonation of delay.

The summons were issued to the defendant for 22-11-2017 which were received by one Manoj on 04-09-2017 and his contact no. is mentioned on the summons. The defendant in his application has nowhere whispered that the summons as received by Manoj were not presented to him. As per law, the written statement is to be filed within 30 days from the date of service which is also mentioned in the summons. The written statement has been filed on the very first date of appearance in the Court and considering the facts and taking a liberal view to provide an opportunity to the defendant so that his case may be decided on merits, the delay is condoned. However, he will compensate the plaintiff with a cost of Rs. 5,000/- for non-compliance of the summons. The written statement is taken on file.

Put up for replication, if any, and reply to the counter claim for 27-02-2018.

(SUNIL CHAUDHARY)
ADJ-03 (N/W) ROHINI COURTS
DELHI: 19-12-2017