

CS No. 498/2019

Shailesh Kumar Sharma V/s Jai Dev Chauhan

16.11.2019

Present: Sh. Ram Kishan, Ld. Counsel for plaintiff.

Sh. Kushal Raj Gupta, Ld. Counsel for defendant.

Written statement already filed by defendant on 13.11.2019 alongwith documents, reply to application under Order 39 Rule 1 & 2, reply to application under Order 8 Rule 1 & 10 and an application under Order 8 Rule 1 CPC for condonation of delay in filing of written statement. Copies already supplied.

Arguments on application under Order 8 Rule 1 & 10 filed by plaintiff and application under Order 8 Rule 1 filed by defendant heard.

It is submitted by counsel for plaintiff that appearance was made by the defendant on 15.06.2019 after service of summons and the present written statement which is filed beyond the period of 90 days can not be taken on record and the defence of the defendant is liable to be struck off.

Ld. Counsel for defendant submitted that the written statement could not be filed earlier as the matter was sent to Mediation on joint request of the parties and both parties wanted to settled the matter. Further that, the delay is not intentional and deliberate.

I have carefully perused the record in the light of submissions made before me.

Contd...../-

It is a matter of record that the matter was referred to Mediation on the joint request of the parties vide order dated 15.07.2019 and the same remained there for some time. Although, time taken in the mediation proceedings can not be claimed as a matter of right by the defendant but keeping in view the intention shown by the defendant to participate in the proceedings, the time taken in mediation can very well be considered for the purpose of condonation of delay in filing of written statement subject to suitable terms.

Hence, keeping in view the facts and circumstances of the case, the above applications filed by the parties are disposed off and the written statement filed by defendant is taken on record subject to cost of Rs. 5000/-.

Ld. Counsel for plaintiff states that in view of changed circumstances, the plaintiff does not want to press some of the reliefs claimed in the suit. It is stated that now the plaintiff wants to press only the alternative prayer of prayer clause 1 and the prayer under prayer clause 2. The statement of plaintiff is recorded separately in this regard. The implications of such statement shall be considered at suitable stage.

Now to come up for payment of cost, filing of replication, and consideration on injunction application on 31.03.2020.

(Sanjay Jindal)
ADJ-04(NW)/Rohini Courts
Delhi/16.11.2019