

CS337/23

AYAZ AHMED Vs. MOHD. AJMAL AND ORS.

20.07.2024

Present: Plaintiff in person.  
D-1 to D-5 in person.  
D-6 served through affixation.  
None for D-7.

Despite service, **D-7 is neither present nor has he filed his written statement. It appears that he is not interested in prosecuting the matter and is accordingly proceeded ex-parte.**

On the last date, it was observed that D-6 has been served. The report qua D-6 shows that he has left the address where he was sought to be served and thereafter summons were pasted outside his premises. In my opinion, considering the nature of dispute, the same cannot be treated as proper service. Thus, plaintiff is directed to file fresh address of said defendant.

In case plaintiff does not have any fresh address of D-6, let affidavit in this regard be filed and appropriate application be filed to serve the said defendant through publication.

Despite opportunity written statement on behalf of D-4 not filed.

One more opportunity granted.

On last date of hearing, right of D-2, D-3 and D-7 to file WS was closed. Despite the same, D-2 and D-3 have filed their WS on 22.05.2024. An application seeking recall of last order whereby right of D-2 and D-3 was closed, is annexed with the WS filed by them.

It is submitted on behalf of D-2 and D-3 (with D-2 appearing for D-3 also) that the said WS be taken on record. Counsel for plaintiff submits that he has no objection in case the same is taken on record. Accordingly, WS of D-2 and D-3 is taken on record.

Application seeking to bring the said WS on record is accordingly disposed of.

D-2 and D-3 are directed to supply copy of the written statement and their reply to application U/O XXXIX Rule 1 & 2 CPC moved on behalf of plaintiff.

At this stage, D-1 to D-5 submit that they too want the property in question to be partitioned.

Let a written statement/affidavit be filed by the said defendants in this regard on next date of hearing (if not already done).

To come up for clarification qua D-6 and further proceedings on 31.08.2024.

Aashish Gupta  
DJ-01/NE/KKD/DELHI  
20.07.2024