

03.06.2024

Present: Sh. R. B. Gaur, Ld. Counsel for plaintiff.
Sh. Mukesh Gautam, Ld. Counsel for defendant.
Defendant in person along with her husband.

One application on behalf of defendant for condonation of delay in filing the written statement as filed on 27.02.2024 is on file.

Ld. Counsel for plaintiff stated that he has received the copy and court may pass appropriate orders on the same as the averments made in the application are without any merits.

Submissions on the application are heard.

The summons for settlement of issues were ordered to be issued to the defendants vide order dated 16.09.2023 and the same were served upon the defendant through her husband on 26.09.2023. On 06.11.2023, vakalatnama was filed on behalf of defendant with prayer to provide more time to file written statement. Fifteen days' time was granted to the defendant to file written statement and matter was adjourned for completion of pleadings and settlement of issues for 19.02.2024. Defendant failed to file the written statement within time granted and it was filed on 29.01.2024 without any application seeking condonation of delay and explaining the reasons due to which written statement could not be filed within time. Considering the facts, the written statement of the defendant was not taken on record and plaintiff was asked to lead the evidence for today.

..2..

In the application filed by defendant seeking condonation of delay, it is stated that written statement could not be filed due to death of real aunt of counsel for defendant who died on 15.11.2023. The application is supported with affidavit of defendant and defendant present in the court is examined by the court orally and she is having no knowledge about the name of counsel engaged on her behalf as well as the name of the deceased. She is having no knowledge as to why the said application was not filed with the written statement. No affidavit of the counsel to the fact that he was not available in the office due to death of his aunt is filed with the application. It appears that defendant is having no knowledge of the facts and rather her husband who is also present in the court, is the dealing hand.

Considering the nature of the suit, a lenient view is taken so that matter may be decided on merits and especially where plaintiff may be compensated monetarily for the delay occurred in his case at the part of defendant, the delay in filing the written statement is condoned and written statement of defendant is taken on record subject to compensation to the plaintiff to the tune of Rs. 10,000/- by the defendant.

Put up for payment of compensation, filing of replication if any, completion of pleadings, filing of documents in original if any, admission/denial of documents and settlement of issues on **09.09.2024**.

(SUNIL CHAUDHARY)
DJ-04/North-West
RHC/Delhi 03.06.2024