

CS No. 705/15

M/s Shiv Raj Intl. Pvt. Ltd. Vs. M/s Patel Engineering Ltd. & Ors.

30.08.2016

Present: AR of the plaintiff with counsel Sh. Nitin Mittal.
Sh. Rahul Kumar, Proxy counsel for defendant no. 1, 2, 3 and 6.
Sh. Ravinder Tiwari, Counsel for defendant no. 5.

Defendant no. 5 has moved an application u/o 8 rule 1 CPC on 11.05.2016 seeking condonation of delay in filing the WS. Though there is no report of the service upon the defendant no. 5 to ascertain as to when the defendant no. 5 was served, however still there is some delay in filing the WS by defendant no. 5. Considering the averments made in the application, delay in filing WS by defendant no. 5 is condoned subject to cost of Rs. 1000/- payable to the plaintiff. Application moved by the defendant no. 5 is accordingly disposed of.

Today, WS is filed on behalf of defendant no. 1. Proxy counsel appearing for defendant no. 1, 2, 3 and 6 submits that defendant no. 2, 3 and 6 are adopting the WS filed by defendant no. 1 and in this regard affidavits of defendant no. 2, 3 and 6 have also been filed. Copy supplied.

Counsel for plaintiff has opposed on taking the WS by defendant no. 1, 2, 3 and 6 on record as there is huge delay of about 5 months in filing the WS by defendant no. 2, 3 and 6 and about one and half month delay in filing the WS by defendant no. 1. Proxy counsel orally requests that delay in filing the WS may be condoned.

Perusal of the record shows that defendant no. 2, 3 and 6 have been served on 01.02.2016. Though there is no service report qua defendant no. 1 but Sh. Ritesh Kumar Chowdhary, Advocate appeared and filed the

memo of appearance for defendant no. 1 on 07.06.2016. Meaning thereby, the defendant no. 1 must have been served prior to said date. As such, there is delay of about 5 months in filing the WS by defendant no. 2, 3 and 6 and delay of about 40-45 days in filing the WS by defendant no. 1.

Though no ground is shown by the defendant no. 1, 2, 3 and 6 for not filing the WS within time except making oral request that delay may be condoned. However, in the interest of justice, in order to grant an opportunity to them to contest the suit, delay in filing the WS by defendant no. 1, 2, 3 and 6 is condoned subject to cost of Rs. 5000/- payable to the plaintiff.

Put up on **08.11.2016** for payment of cost, replication, if any, admission/denial of documents and framing of issues.

(Balwant Rai Bansal)
ADJ-02/SE/Saket/New Delhi
30.08.2016