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CS DJ 932/18
AMC LAW FIRM Vs.
GURVINDER SINGH SURI

31.01.2020

Present: Counsel for plaintiff
Proxy Counsel for defendant

This is an application under Order VIII R 1 r/w Sec. 151 CPC seeking condonation of delay in filing the written statement. No reply sought to be filed. Submissions advanced with respect to the application.

It is mentioned in the application that the counsel for defendant could not file the written statement as complete set of plaint was not provided by the plaintiff, specifically the certificate u/S. 65B Indian Evidence Act. It is also mentioned that various lawyers refused to accept the brief of defendant as the opposite party is a law firm.

Order sheets perused. There is no mention in the Order dated 23.03.2019 that complete set of plaint has not been provided or that the Certificate u/S. 65B of Indian Evidence Act was provided on the said date. As such, the Presiding Officer was on leave on the said date but defendant has not placed on record any proof of service upon him or his counsel to prove the point in question, even though it is already mentioned in the Order dated 23.03.2019 that the WS has not been filed despite service of summons of the suit upon defendant on 08.01.2019. The date of service of summons is undisputed. Thus, the reason as cited that complete set of plaint or the certificate u/S. 65B of IEA was not supplied, holds no ground whatsoever. Even the other reason cited with respect to refusal of acceptance of brief by the counsels is totally baseless and irrelevant.

There is a delay of about 80 days in filing of written statement. The cause as explained is not satisfactory, however, in the interest of justice as the suit must be decided upon taking of defence of the defendant on record, so that the issues in the matter can be finally and effectively adjudicated upon, also considering the loss of time, borne by the opposite counsel, the application is allowed subject to cost of Rs. 5000/- to be paid by defendant to the plaintiff. Application under Order VIII R 1 CPC is accordingly disposed of. WS shall be taken on record only upon payment of Rs. 5000/- to the opposite side on or before the next date of hearing.

Put up for completion of pleadings / Admission/Denial of documents /framing of issues on 24.03.2020.

(Shelly Arora)
ADJ-1(South East) Saket Court
New Delhi/31.01.2020