

CS-509/24 CHANDER BHAGIA VS. LOKESH SAINI D.
THROUGH LRS.

11.12.2024

Present : Sh. Robin Jaswal, Ld. Counsel for plaintiff.
Sh. G.D. Chotmurada, Ld. Counsel for defendant
no.2 along with defendant no.2.
Sh. Achin Saxena, Ld. Counsel for defendant no.3
along with defendant no.3.

1. Record reveals that defendant no.2 was served and filed her Memo of Appearance on 30.09.2024. The Memo of Appearance was filed by defendant after delay of 58 days.
2. It is submitted by Ld. Counsel for defendant no.2 that there is some bereavement in the family of defendant no.2 and due to customary rights to be performed, she could not file her appearance and seeks condonation of delay.
3. After some arguments, Ld. Counsel for plaintiff submits that in the interest of justice, delay may be condoned.
4. In view of submissions made and no objection on behalf of plaintiff, Memo of Appearance filed on behalf of defendant no.2 is taken on record.
5. Ld. Counsel for defendant no.2 has filed leave to defend application on 21.11.2024. Application for summons for judgement was filed on 10.12.2024. As the leave to defend application has been filed even prior to issuance of summons for judgment, the same is taken on record.
6. Reply, if any be filed by plaintiff atleast one week prior to NDOH with advance copy to the opposite side.
7. As per record, defendant no.3 was not served with the summons under Order XXXVII CPC for appearance in the

present case.

8. It is submitted by Ld. Counsel for defendant no.3 that through common acquaintances, they came to know about the present case and after inspection of the court record, they found out that they have not been served as per record as well as as per their knowledge. However, by way of abundant caution, defendant no.3 has filed Memo of Appearance and leave to defendant application on 09.12.2024.

9. In view of submissions made, Memo of Appearance on behalf of defendant no.3 is also taken on record.

10. On 10.12.2024, the plaintiff has filed an application under Order XXVII Rule 4 CPC for issuance of summons for judgment along with application under Section 5 of the Limitation Act for condonation of delay in filing summons for judgment.

11. In view of the fact that both defendants no.2 and 3 have filed their leave to defend applications, issuance of summons for judgment is dispensed with.

12. As such, application under Section 5 of the Limitation Act has also become infructuous.

13. Both the applications are disposed of accordingly.

14. Reply to leave to defend application filed by defendant no.3 be filed by plaintiff atleast one week prior to NDOH with advance copy to opposite side.

15. List for arguments on the applications **for 05.02.2025.**

(Rahul Bhatia)
DJ-01 (South East) Saket Court
New Delhi/11.12.2024 (vg)