

17.08.2023

Present : Sh. Sanjay Kathuria Ld. Counsel for plaintiff.
None for R-1/State.
Ms. Mamta Ahlmad from the office of defendant no. 2 in person.
Sh. Arshad Khan along with Abhishek Pandey J.E.M-1/SNZ on behalf of defendant no. 3. (its right to file WS was closed vide order dated 22.03.2023.)

Since matter was listed for reply and arguments on application u/o 8 rule 1 CPC of defendant no. 3.

Perusal of record shows that joint WS on behalf of defendant no. 1 and 2 along with reply to application u/o 39 rule 1 and 2 CPC was filed on 23.05.2023. It be taken on record.

The counsel for plaintiff submits that he is not willing to file reply to the application u/o 8 rule 1 CPC and would straightway argue the same.

The counsel for applicant / defendant no. 3 submitted that summons of the suit were received by defendant no. 3 on 24.02.2023 and the concerned officers searched for relevant documents, but due to frequent transfer in department, required information was received after sometime and thereafter, the WS was prepared, hence WS could not be filed within 30 days. On the other hand, the counsel for plaintiff submitted that the application is not maintainable as the right to file WS was already closed vide order

dated 22.03.2023. Heard. Perused.

Perusal of record shows that defendant no. 3 was served on 18.01.2023 and despite service written statement was not filed on its behalf within stipulated period of time, hence, its right to file WS was closed vide order dated 22.03.2023. However, in the present application, the date of service of summons upon defendant no. 3 has wrongly been mentioned as 24.02.2023, whereas, as per record defendant no. 3 was served on 18.01.2023, and the reason for not filing the WS within 30 days of service of summons seems to be only an afterthought as on 22.03.2023, the counsel for defendant no. 3 did not mention / state any reason for not filing the WS of defendant no. 3 on time and filed the present application on 09.05.2023 as an afterthought only. In view of the above discussion, the present application under order 8 rule 1 r/w S. 148 & 151 CPC is dismissed and disposed off accordingly.

The counsel for plaintiff submits that he does not wish to file any replication. Heard.

Otherwise, pleadings are complete.

Admission/denial not conducted despite opportunity.

Heard on the issues.

From the pleadings of parties, following issues are framed:-

1. Whether the suit is liable to be rejected u/o 7 rule 11 CPC? OPD1 & 2.
2. Whether the suit is not valued properly for the purpose of court fees? OPD1 & 2.
3. Whether the plaintiff is entitled to the decree declaration as prayed for? OPP
4. Whether the plaintiff is entitled to the decree of permanent injunction as prayed for? OPP
5. Relief

No other issue arises or is pressed for.

List of witnesses be filed by both the parties within 15 days. Advance copy of evidence affidavits be supplied to the counsel for defendants 10 days before next date of hearing.

Put up for PE on 04.01.2024.

(Ramesh Kumar II)
Additional District Judge-01
SHD/KKD/Delhi/17.08.2023