

05.12.2022

Present : Plaintiff in person.
None for D1.
Sh. Kamal Garg and Sh. P.K. Chauhan Ld. Counsel
for D2 / EDMC.

At this stage, Sh. P.K. Chauhan Advocate submits that he may be discharged as he has no instructions from the department to appear in this case. Heard. Considering the above submission, Sh. P.K. Chauhan Advocate is discharged henceforth.

Sh. Kamal Garg Ld. counsel for D2 submits that WS was filed on behalf of D2 on 01.12.2022 along with application u/o 8 R 1 CPC seeking condonation of delay. Heard. Record perused. On perusal of record submission of counsel for D2 is find placed. The counsel for D2 submits that WS could not be filed within stipulated period of 90 days as the matter was marked to previous counsel who failed to file the WS within time. It is also mentioned in the application that D2 is a Government department and as per the protocol had forwarded all the details to the previous counsel, but he failed to filed the WS. However, the status report dated 26.09.2022 was filed on record on behalf of D2. Ld. Counsel further states that there is delay of about 106 days in filing the WS which is

-2-

neither intentional nor willful but due to the aforesaid reasons.

On the other hand, plaintiff submits that her counsel is not available today and seeks adjournment.

Heard. Perused.

From the perusal of record it is revealed that service upon D2 was effected on 12.05.2022 but no WS was filed on its behalf till 26.09.2022, hence the opportunity to file WS on behalf of D2 was closed vide order dated 26.09.2022. Thereafter, in the meantime, WS along with application seeking condonation of delay was moved on behalf of D2 on 01.12.2022.

Since there is delay of about 150 days in filing the WS on behalf of D2 and court does not find any justification / merit in the present application, however in the interest of justice, present application is allowed subject to cost of Rs. 25000/-, which is imposed upon defendant no. 2 for condoning the delay in filing the WS. WS on behalf of defendant no. 2 is taken on record. Out of the cost of Rs. 25000/-, Rs. 10,000/- is to be paid to the plaintiff by defendant no. 2 and Rs. 15,000/- is to be deposited with Shahdara Bar Association and receipts qua the

CS No. 33/21
Hema Sharma vs. Madhu Bala & Anr.

-3-

same be placed on record on or before next date of hearing.

Plaintiff seeks time for filing replication. Heard.

Matter is adjourned.

Matter be listed for replication, admission-denial of documents and framing of issues on 12.05.2023.

(Ramesh Kumar II)
Additional District Judge-01
SHD/KKD/Delhi/05.12.2022