

25.07.2023

Present: Sh. Krishan Rana, ld. counsel for plaintiff.

Plaintiff in person.

Defendant no.1 in person.

Sh. Kamal Garg, ld. counsel for defendant no.2.

Since matter was fixed for replication, admission-denial of documents and framing of issues.

At this stage, ld. counsel for defendant no.2 submits that on 12.05.2023, he had moved an application under Section 151 CPC for waiver of cost. Heard.

Record perused. Submission of ld. counsel for defendant no.2 finds placed.

Ld. counsel for plaintiff submits that he is not willing to file reply to the aforesaid application of defendant no.2 and will straightaway argue the matter. Heard.

Ld. counsel for defendant no.2 has pressed the present application under section 151 CPC for waiver of cost, arguing that on 17.05.2022, the defendant no.2 received the summons of the present suit and accordingly, on 26.09.2022, the defendant no.2 filed the status report, however the previous counsel of defendant no.2 despite having all the relevant information failed to file written statement. He further submitted that on 01.12.2022, the defendant no.2 through the present counsel filed the written

statement but this court was pleased to allow the written statement with the cost of Rs.25,000/-. He further submitted that order 27 rule 5 CPC prescribes that in fixing the date for the hearing of a suit against the government, the court shall allow a reasonable time for the necessary communication with the department concerned through the proper channel. On the abovesaid grounds, ld. counsel for defendant no.2 requests to allow the present application, in the interest of justice.

Per contra, ld. counsel for plaintiff has vehemently opposed the present application of defendant no.2, submitting that if defendant no.2 can file status report, then it could have also filed written statement in time, but defendant no.2 did not do so and now defendant no.2 is attributing negligence on its previous counsel. Therefore, ld. counsel for plaintiff requests to dismiss the present application.

Arguments heard. Considering the submissions of both the parties, this court does not find any merit in the present application and same is dismissed.

Application stands disposed off accordingly.

Ld. counsel for defendant no.2 is again directed to comply order dt. 05.12.2022 on or before next date of hearing.

At this stage, ld. counsel for defendant no.2 submits that he has already filed WS on record. Heard.

On perusal of record WS filed by defendant no.2 finds placed. WS be taken on record subject to payment of cost.

Copy of WS filed on behalf of defendant no.2 has already

been supplied to ld. counsel for plaintiff.

Matter is adjourned.

Matter be listed for replication, admission-denial of documents and framing of issues on 27.09.2023.

(RAMESH KUMAR-II)
ADJ-01/KKD Court/Delhi
25.07.2023