

14.05.2019

Present: Ld. Counsel for plaintiff.
Defendant no.1 is ex-parte vide order dated 20.07.2017.
Defendant no.2 is ex-parte vide order dated 22.05.2017.
Ld. Counsel for defendant no.1.

Submission on application u/s 5 of Limitation Act moved on behalf of defendant no.1 heard. Grounds mentioned in the application perused very carefully. Considering the submission and grounds mentioned in the application, the same is hereby disposed off as allowed. Delay is hereby condoned in filing application under Order 9 Rule 7 r/w Section 151 CPC for setting aside the order dated 20.07.2017.

Submission on application under Order 9 Rule 7 r/w Section 151 CPC are also heard on behalf of both the parties. Grounds mentioned in application perused very carefully.

It is submitted by the counsel for defendant no.1 that he has never received any reply to the WS as well as application of answering defendants. It is further submitted that on 15.03.2017, Ms. Manisha, proxy counsel for D-1 had appeared and sought time to file reply to the application of answering defendant under Order 8 rule 1 CPC and matter was adjourned for reply and argument. Thereafter on 22.05.2017 publication was effected for defendant no.2. Thereafter matter was adjourned for 20.07.2017. On 20.07.2017, counsel for D-1 was at Tis Hazari Courts in court no.27 in another matter and answering defendant could not appear due to illness and old age ailments and the on that day the defendant no.1 was proceeded to ex-parte.

Ld. Counsel for plaintiff has strongly opposed the application of plaintiff under Order 9 Rule 7 r/w Section 151 CPC.

Considering the submission and grounds mentioned in the application, the suit at its initial stage as the issue has not been framed in this case. Hence, the application of defendant no.1 under Order 9 Rule 7 r/w Section 151 CPC is disposed