

30.11.2024

Present : Sh. Anil Kumar Ld. Counsel for plaintiff.
Ms. Ritu Gupta Ld. Counsel for defendant.

Today, matter is listed for arguments on application u/o 8 rule 1 r/w S. 151 CPC filed by defendant.

By way of aforesaid application, defendant is seeking condonation of delay of 73 days in filing WS by defendant and to take the WS on record.

Ld. Counsel for defendant submits that the defendant had been served on 03.11.2023. Thereafter, the present matter had been marked to the Ld. Counsel for defendant by the department on 12.01.2024. However, Ld. Counsel for defendant was not able to attend the office on regular basis in January 2024 due to critical condition of her mother in law. The mother in law of the Ld. Counsel for the defendant had expired on 20.01.2024 and she resumed the office from 01.02.2024. Thereafter, on providing of all the comments by the department, WS had been filed on 15.02.2024.

On the other hand, Ld. Counsel for plaintiff has opposed the aforesaid application and has prayed for dismissal of the same.

Arguments heard. Record perused.

Perusal of record shows that the defendant had been served on 03.11.2023 and its WS was filed on 15.02.2024, hence, there is delay of about 104 days in filing the WS by

defendant. In view of the same, the present application, is being treated u/s 151 CPC only.

Keeping in view the aforesaid facts and circumstances, reasons mentioned in the aforesaid application, on the basis of submissions made by the Ld. Counsel for parties as well as considering that it is well settled that the cases should be decided on merits, rather than on technicalities and also considering the fact that the present suit is at initial stage and issues are yet to be framed, **the aforesaid application of defendant is disposed of as allowed, subject to imposition of cost of Rs. 2000/- to be paid by the defendant to the plaintiff.**

Ld. Counsel for defendant undertakes to pay the aforesaid cost on NDOH to the plaintiff. Heard.

The delay in filing the WS of defendant shall be condoned and the WS of defendant shall be taken on record, subject to payment of aforesaid cost.

Matter be listed for payment of cost and completion of pleadings on 27.03.2025. Both the parties are directed to file affidavit of admission-denial of documents and proposed issues. Advance copy of the same be exchanged with each other.

(Gaurav)
District Judge-01/ SHD
KKD/Delhi/30.11.2024_(ch)