

CS no. 773/2017

Vivek Gupta V/s. Manoj Jain

04/09/2018

Pr.:- Sh. Adesh Kumar, counsel for plaintiff.
Sh. Manu Gupta, LAC for defendant.

A. An application under Order VIII Rule 1 CPC for condonation of delay in filing of WS as well as seeking permission to place WS on record is pending adjudication.

Submissions heard. Record perused.

It is submitted by the plaintiff that without admitting veracity of the defendant's claim, plaintiff has no objection in case the present application is allowed subject however to heavy cost. Even otherwise, it is well settled that rules of procedure are hand maids of justice. It would be appropriate if the matter be disposed off on merits rather on technicalities. Further more, in the facts of the case, the plaintiff can be compensated by costs for the delay occasioned. No prejudice will be caused to the plaintiff in case the present application is allowed as at the most, the present matter will be disposed off on merits pursuant to disposal of the present application.

Perusal of file shows that defendant was served on 14/12/2017 and had appeared in court with counsel on 06/01/2018. Thereafter court was on leave. Matter was referred to mediation center, but could not be settled. On 23/05/2018 opportunity of defendant to file WS was closed.

In the facts of the case especially considering the no objection of Ld. Counsel for plaintiff, the delay in filing of the WS is condoned subject to payment

of cost of Rs.6,000/- by the defendant to the plaintiff. WS is taken on record subject to payment of cost.

B. Ld. Counsel for plaintiff sought adjournment for filing replication.

Replication, if any, be filed by NDOH with advance copy to the opposite party.

C. Admission-denial not conducted despite opportunity. Parties are at liberty to file affidavit of admission-denial of documents, if any, with advance copy to the opposite party.

I have interacted with the parties. There are no chances of settlement in this case.

Pleadings are complete. Heard on the issues. Case file perused.

On the basis of pleadings of the parties, following issues are framed:-

ISSUES

- 1. Whether defendant has no concern with M/s. Jai Paras, if so, its effect? OPD***
- 2. Whether plaintiff is entitle to decree for Rs.7,63,246/- as claimed? OPP***
- 3. Whether plaintiff is entitle to any interest, if so, at what rate and for what period? OPP***
- 4. Relief.***

No other issue arises nor pressed for.

List of witnesses be filed by both the parties within 15 days with advance copy to the opposite party.

Advance copy of the evidence affidavit be supplied to the opposite party.

At this stage, it is submitted by the plaintiff that plaintiff had already examined in chief PW-2 and partly examined PW-1. It is further submitted that plaintiff is adopting the evidence already recorded. Ld. Counsel for defendant submits that defendant has no objection in case, the evidence already recorded is adopted.

Plaintiff is directed to supply copy of evidence affidavits of PW-1 and PW-2 as well as remaining witnesses to the defendant.

Put up for PE on 06/10/2018.

(SHARAD GUPTA)
Addl. District Judge-01(Shahdara),
Karkardooma, Delhi. 04/09/2018.