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CS DJ ADJ 16370/16

RAVINDER PARKASH JAIN ORS Vs. MAHIPAL SINGH ORS

08.01.2025

Present: Sh. Sanjeev Sahay, Ld. Counsel for Plaintiff through VC.
Sh. Sunny Dagar, Ld. Counsel for Defendant no. 1.
Ms. Krishna Saroff, Ld. Counsel for Defendant no. 2.

Further arguments heard on the application under Order VII R 11 of CPC. Arguments also heard on the application moved by Defendant no. 2 for recalling of order closing the right of Defendant no. 2 to file WS.

List for orders at 04:00 PM.

(DIVYANG THAKUR)
DJ-03/SOUTH-WEST
DWARKA/NEW DELHI
08.01.2025 (A)

At 04:00 PM

Present: None.

Vide the present order, I would decide the application moved on behalf of LRs of Defendant no. 2 for recalling of order dated 25.09.2024 vide which the right of the LRs of Defendant no. 2 to file their WS was closed and defence was struck off.

The reason given is that the LRs were never served with the copy of the plaint having been served by way of publication and that is why, they had to obtain a certified copy of the plaint and annexures. On inquiry, the ld. Counsel for LRs of Defendant no. 2 stated that she had received the certified copy in the month of July 2024, though the exact date has not been mentioned in the application or clarified to the Court. The

application has been vehemently opposed by Counsel for Plaintiff stating that the said application is time barred and also vexatious in nature with only a view to delay the proceedings and that no such submission as are made on behalf of the Applicant was made earlier at the time when this Court had granted three weeks' time to file the WS.

There is no merit in the present application, however, considering the fact that if the defence is struck off, the suit cannot be decided on the merits and after hearing all possible objections, a last and final opportunity is being granted for filing the WS within one week subject to a cost of Rs. 30,000/- to be paid to the Plaintiff which sum shall also be paid within one week. Failure to comply with the present order shall result in the liberty granted being vacated.

Copy of order be given dasti, if requested to both the parties.

Application is disposed off accordingly.

List for completion of pleadings and hearing on the application under Order VII R 11 of CPC on **24.03.2025**.

(DIVYANG THAKUR)
DJ-03/SOUTH-WEST
DWARKA/NEW DELHI
08.01.2025 (A)