

CS No. 110/17
Smt. Davinder Kaur Anand Vs. Jai Prakash Nagar & Ors.

01.07.2017

Present: Sh. Chander Mohan Sharma, counsel for the plaintiff
alongwith Attorney of the plaintiff.
Sh. D. Hasija and Sh. Vishal Chabra, counsels for the
defendants.

Joint written statement filed on behalf of defendant nos. 1 & 2 alongwith reply to the application u/O. 39 Rule 1 & 2 CPC. However, on perusal of record, it reveals that the right of the defendant no.2 to file written statement was closed vide order dated 15.05.2017.

Defendant no.2 has filed an application u/O. 8 Rule 1 of CPC seeking permission for placing on record the written statement. It has been mentioned in the application that she (defendant no.2) was out of station in the last week of April, 2017 for looking after her ailing brother and sister-in-law. Now, she has come back to Delhi on 11.06.2017. The application is not in proper format, however, the application is being treated u/s 151 of CPC for recalling of the last order i.e. 15.05.2017. In the interest of justice, the application is allowed however, subject to cost of Rs. 3000/- to be paid to the plaintiff by defendant no.2.

One application has also been moved by defendant no.1 u/s. 151 CPC for waiving of cost imposed on 15.05.2017. On the last date of hearing i.e. 15.05.2017, written statement was filed on behalf of defendant no.1 without any application seeking condonation of delay in filing the same. I find no justification in allowing the said application u/s. 151 CPC, therefore, the same is dismissed. Cost be deposited and receipt be shown on the next date of hearing.

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Replication has been filed on behalf of the plaintiff to the WS of defendant no.1 alongwith rejoinder to the reply of defendant no.1 to the application u/O. 39 Rule 1 & 2 CPC. Reply to the application u/O. 8 Rule 1 CPC of defendant no.1 has also been filed on behalf of the plaintiff. Same are taken on record.

On perusal of record, it reveals that service has been effected upon defendant nos. 3 & 4 through publication, however, they are not present despite service and despite several calls. Absence of defendant nos. 3 & 4 is considered to be deliberate on their part. Accordingly, in view of facts and circumstances, they are proceeded ex-parte.

Now, to come up for filing of replication to the WS filed by defendant no. 2, disposal of application filed on behalf of defendant no.1 u/O. 8 Rule 1-A CPC, application u/O. 39 Rule 1 & 2 CPC of the plaintiff, admission-denial of documents, framing of issues, exploring the possibility of settlement, if any, as well as for payment of cost on **11.07.2017**. Parties shall remain present in person alongwith their respective counsels on the next date of hearing. Date is given as per the convenience of the parties.

(Mohd. Farrukh)
ADJ(SW)/Dwarka Courts
01.07.2017