

03.06.2019

Present: Advocate Shri N.C. Sharma for plaintiff.
Advocate Shri Amit Chauhan and Shri Mayank Mankotia for defendant no.1.
Advocate Shri Vikram Singh for defendant No.2.
Advocate Shri Amit Minocha for defendant No.3 DDA had mentioned the case at 10:00 a.m. and sought leave for attending his other matters.

Reply to application under Order VIII Rule 1 read with Section 151 CPC and the other application under Section 5 of Limitation Act have been filed by plaintiff's counsel. Copy supplied.

Ld. Counsel for defendant No.2 submits that written statement of defendant No.2. along with application for condoning delay has been filed on 04.01.2019.

Submissions heard.

Ld. Counsel for defendant No.1 has referred to para no. 4 & 5 of application under Order VIII Rule 1 read with Section 151 CPC and submits that defendant No.1 being old aged lady has sold out the suit property to plaintiff and relevant title documents have already been executed in favour of plaintiff by defendant No.1 who could not file her written statement within time due to old age ailments and matter thereafter got delayed as settlement could not be effected at Mediation Centre, Dwarka Courts.

Next, he has also referred to application under Section 5 of Limitation Act wherein aforesaid averments have been reiterated for condoning delay of 158 days in filing written statement.

Both applications have been opposed by plaintiff's counsel by adverting to reply opposing applications for condonation of delay filed by defendant No.1.

Ld. Counsel for defendant No.2, on his part, has adverted to para No.3 of application for condoning delay and submits that written statement could not be filed within statutory period of 30 days as he had to take care of his wife who had fallen down from stairs and suffered fracture injury.

Application for condoning delay on behalf of defendant No.2 on the ground of personal difficulty of defendant's counsel is not opposed by plaintiff's counsel.

Hon'ble Supreme Court of India in case titled ***Zolba vs. Keshao & Ors.*** AIR 2008 SC 2099 has held that Order VIII Rule 1 CPC is not mandatory and it would be open to the Court to permit the defendant to file his written statement, if exceptional circumstances have been made out.

Further, it is well settled law that sufficient cause should be interpreted liberally so as to advance substantial justice when no negligence, nor inaction nor want of bonafides is imputable as held by Hon'ble Supreme Court of India in case titled ***Shakuntala Devi Vs. Kuntal Kumari & Ors.*** AIR 1969 SC 575.

Defendants' applications are allowed considering the grounds mentioned in their applications and **written statement of defendants No.1 & 2 are taken on record.**

Another legible copy of written statement of defendant No.2 be supplied to plaintiff's counsel within a week.

Advance copy of replication be supplied to Ld. Counsels for defendants two weeks prior to next date of hearing and matter is adjourned to **04.09.2019 for examination of parties and settlement of issues.**

(Tarun Yogesh)
ADJ-03 : Dwarka Courts
Delhi/03.06.2019