

CS No. 1052/22
Harvinder Vs Jai Prakash

22.12.2023

Present: Sh. Ravinder Singh Ld Counsel for the plaintiff.
Sh. Madhav Narayan proxy Counsel for the defendant.

At the time of entering appearance on 04.01.2023, the defendant had filed an application u/o 37 Rule 3 (7) CPC seeking condonation of delay in entering appearance. On the said date, the defendant had furnished his address as follows:

Jai Prakash
S/o Sh Babu Lal
R/o 151/6, Railway Colony, Near Shiv Ji Bridge Railway Station,
Minto Bridge, New Delhi 110002.

As recorded vide order dt 01.05.2023 the Ld counsel appearing for defendant had issued a confirmation to the court that the address as reproduced herein above belong to the defendant.

Vide order dt 18.08.2023, summons for judgments were issued to the defendant which summons as per order dt 07.11.2023 were returned unserved since as per the service report no such person was found to be residing at the given address and Ld Counsel for defendant on instructions have stated that wrong address has been provided by the defendant. However in the interest of justice fresh summons for judgments was served upon the defendant subject to payment of cost.

It is submitted by Ld Counsel for plaintiff that summons for judgments were served upon the defendant on 08.11.2023. Despite having being served with the summons for judgments on 08.11.2023, till the present day no leave to defend application has been filed by the defendant. Even the costs imposed vide order dt 01.05.2023 & also vide order dt 07.11.2023 has not been paid till date.

Today a fresh application u/o 37 Rule 3 (7) CPC has been filed on behalf of the defendant confirming that summons for judgments were served upon

the defendant on 08.11.2023 and the copy of the plaint stood supplied on 10.11.2023. However it is submitted that due to the sudden illness of the mother in law on 15.11.2023 the counsel could not file the leave to defend application and a 2 weeks time is being sought by the defendant for filing the leave to defend application and a condonation of delay of 31 days is also sought for filing of the leave to defend application.

Upon inquires made as to whether the defendant is present in the court, it is submitted by proxy counsel appearing for the defendant that the defendant was present in the court and till about 12:30 pm and has left the court premises about 15 minutes prior to the hearing of the present matter due to his brother in law meeting with an accident.

The conduct of the defendant does not warrant grant of any further time in seeking the indulgence of the court or in seeking the condonation of delay in filing the application for leave to defend who despite having entered appearance on 04.01.2023 and despite having confirmed that the address as furnished at the time of entering appearance was the address of the defendant as recorded vide order dt 01.05.2023 gave a statement as recorded vide order dt 07.11.2023 to the effect that a wrong address of the defendant had been provided at the time of entering appearance. The present application is accordingly dismissed.

Since no leave to defend application has been filed till date and consequent upon the dismissal of the application seeking condonation of delay, the present suit is decreed vide separate order announced today in the open court.

Decree sheet be prepared accordingly. The plaintiff is also entitled to the costs of the suit. File be consigned to record room after due compliance.

(Sachin Sood)
ADJ-01 (Central)
THC, Delhi/22.12.2023