

CS DJ 758/22
RAJ TAWAR Vs. YOGESH TYAGI

23.02.2024

Present. Sh. A.K. Mishra, proxy counsel with Plaintiff.
Sh. Narender Sharma, Ld. Counsel for Defendant.

WS filed on behalf of defendant is taken on record. The report, however, has not been prepared by the Ahlmad. Ahlmad is warned to be careful and ensure that reports are always written with pencil on the last ordersheet.

WS is accompanied by a list of documents/with documents. Reply to the application seeking condonation of delay in filing of the present suit and application under Order 8 Rule 1 of CPC seeking condonation in filing in WS be filed.

Ld. Counsel for defendant submits that delay in filing of suit cannot be condoned and therefore, the application is required to be dismissed.

In my view, the application under Section 5 of Limitation Act has been filed under some misconception, inasmuch as, from the plaint it can be discerned that the father of the plaintiff, who expired on 12.05.2021 due to Covid, had given a sum of Rs.30 Lacs on 10.07.2019 to the company of the defendant, namely, M/s. Balaji Metro Policy Pvt. Ltd.

Ld. Counsel for the plaintiff seeks some time to go through the decision of the Hon'ble Supreme Court, as also, clarify the pleadings vis-a-vis identification of the defendant, inasmuch as, private limited company is being referred to as a proprietorship concern in the plaint. A private limited company

cannot have a proprietor, but a Director. Therefore, this position is also required to be clarified.

Whether the payments were made in an individual capacity or on behalf of the company? Similarly, whether the amount was received in individual capacity or on behalf of the company, needs to be clarified.

Further, plaintiff is directed to ensure that the valuation and payment of court fees is proper in the present plaint.

List on **01.03.2024**.

(HARJYOT SINGH BHALLA)
ADJ-05, SOUTH SAKET COURTS
NEW DELHI/23.02.2024