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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CS(OS) 80/2023**

GEORGE INSTITUTE FOR GLOBAL HEALTH & ORS.

.....Plaintiffs

Through: Ms. Afsha, Adv. (Through VC)

versus

RAJESH ARORA

.....Defendant

Through: Ms. Sugandha Sharma, Mr. Rachit
Devgun, Mr. Shubham Bansal, Advs.
(M: 7838609232)

CORAM:

DR. JAGMINDER SINGH (DHJS) JOINT REGISTRAR (JUDICIAL)

ORDER

% **15.07.2024**

I.A. No. 2173/2023

This is an application under Order XXXIX Rule 1 & 2.

Pleadings in this IA are complete.

I.A. No. 2945/2024

This is an application moved on behalf of defendant under Rule 2 of Chapter VII of Delhi High Court Original Side Rules for taking on record the written statement.

It is submitted by learned counsel for applicant that she had filed the written statement first within the stipulated period of 30 days but same was

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returned under objection and she was informed about the defect of non-filing of affidavit of admission / denial on 11.04.2023. It is further submitted by learned counsel that earlier defects were raised by the Registry on 15.03.2024 but at that time she was not informed about the defect of affidavit of admission / denial. Thereafter, she had cured the said defect and re-filed the written statement along with affidavit of admission / denial on 18.07.2023. Learned counsel submitted that there is limitation of time for filing the written statement only but there is no limitation for filing the affidavit of admission / denial. She further submitted that non-filing of affidavit of admission / denial is a curable defect and same can be cured after the said defect is raised by the Registry within 30 days and as lastly the defect was raised on 17.07.2023 and therefore, she had cured the defect on the next day i.e. 18.07.2023. Therefore, the written statement as well as affidavit of admission / denial are within the statutory limitation and therefore, same may be taken on record. Learned counsel for defendant also referred the Case Law i.e. ***COSCO International Pvt. Ltd. Versus Jagat Singh Dugar; 2022 SCC OnLine Del 1113.***

On the other hand, learned counsel for plaintiffs opposed the application. He submitted that the written statement is beyond the period of even extended limitation of 30+90 days and further that the defect of non-filing of affidavit of admission / denial was not cured by the defendant within the period of 30 days from the time when the said defect was raised by the Registry. He submitted that the written statement without affidavit of admission / denial cannot be taken on record and in this case, neither written



statement is within the limitation nor the defect was cured within the limitation, therefore, the present application is without any merit and same is liable to be dismissed. Learned counsel for plaintiff also referred the Case Laws i.e. ***COSCO International Pvt. Ltd. Versus Jagat Singh Dugar; 2022 SCC OnLine Del 1113*** and ***Container Corporation of India Limited Versus Shivhare Road Lines; 2024 SCC OnLine Del 3073***.

I have considered the submissions of both the parties and have gone through the relevant Rules and case laws. Admittedly, the service was effected on 12.02.2023 and thereafter, the written statement was filed on 14.03.2023 i.e. on the 30th day, however, same was returned under objection. It is further not disputed that the defect of non-filing of affidavit of admission / denial was informed by the Registry to the defendant on 11.04.2023. Therefore, the defendant has to cure the said defect within 30 days from the said knowledge i.e. up to 11.05.2023. But same has not been done on behalf of the defendant. Thereafter, again the same defects were raised on 12.05.2023 but the defects were again not cured within 30 days from even 12.05.2023. The arguments of learned counsel for defendant cannot be accepted that she had cured the defects when it was informed lastly on 17.07.2023 as it is not written in the Rules that defects are to be cured within 30 days when these are firstly informed. It is a matter of common sense that the parties are expected to cure the defects, if any, when the same come to their knowledge and it cannot be accepted that the parties are given liberty to wait for giving the information about the said defects from the Registry in 2nd time, 3rd time and so on, as it will become an endless process.

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The relevant Rules i.e. Rule 3 of Chapter IV of Delhi High Court Original Side Rules, 2018 is reproduced here as under:

“3. Defective pleading / document:-

- (a) If on scrutiny, the pleading/document is found defective, the Deputy Registrar/Assistant Registrar, Incharge of the Filing Counter, shall specify the objections, a copy of which will be kept for the Court Record, and return for amendment and re-filing within a time not exceeding 7 days at a time and 30 days in aggregate.***
- (b) If the pleading/document is not taken back for amendment within the time allowed under sub-rule (a), it shall be registered and listed before the Court for its dismissal for non-prosecution.***
- (c) If the pleading/document is filed beyond the time allowed under subrule (a) the pleading/document must be accompanied with an application for condonation of delay in re-filing of the said pleading/document.***
- (d) Any party aggrieved by any order made by the Registrar under this Rule may, within fifteen days of the making of such order, appeal against it to the Judge in Chambers.”***

In this case, it is clear that the written statement was finally filed after about 156 days from the date of service i.e. 12.02.2024 and the defect of non-filing of affidavit of admission / denial was not cured within the



stipulated period of initial seven days or aggregate 30 days but cured only after a long delay of more than three months from the date of 11.04.2023 when the same was informed to the defendant. The pleading filed with the aforesaid delay was also not accompanied with any application for condonation of delay in re-filing.

Therefore, in view of the relevant Rules, it appears that the application moved by the defendant is without any merit and same stands dismissed. The written statement and accompanying affidavit of admission / denial are not taken on record being barred by limitation.

The captioned IA accordingly stands dismissed and **disposed of**.

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Written statement with affidavit of admission / denial is not allowed to be taken on record. It is submitted by learned counsel for plaintiff that he had already filed the replication along with affidavit of admission / denial but same is lying under objections. He submitted that he will do the needful to place the same on record.

It is further submitted that the matter is already listed before the Hon'ble Court on 19.07.2024.

Hence, put up before the Hon'ble Court on the date already fixed i.e. 19.07.2024 for further directions.

DR. JAGMINDER SINGH (DHJS)
JOINT REGISTRAR (JUDICIAL)

JULY 15, 2024/sms

Click here to check corrigendum, if any

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