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

+ **CS(COMM) 173/2023**

BLUE GRASS & ANR.

.....Plaintiffs

Through: Mr. S. S. Ahluwalia, Mr. Mohit
Bangwal, Ms. Sanya Zehra, Advs.
along with plaintiff in person

versus

NIRVIKAR FILM LLP AND ORS

.....Defendants

Through: Mr. Keshav Gulati, Mr. Ambuj
Sachan, Advs. (M: 9005371505)

CORAM:

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

ORDER

% **29.11.2024**

I.A. No. 5913/2023(by plaintiff for summary judgment),

**I.A. No. 14509/2023(by plaintiffs for closing right of defendants for
filing reply within 30 days to the application of summary judgment) &**

**I.A. No. 15290/2023(by plaintiffs for closing right of defendants for
filing the written statement)**

1. At request, put up for consideration on these IAs on the next date of hearing.

**I.A. No. 17869/2023(by defendant no. 1 for condonation of delay of 90
days in filing the written statement)**

2. Reply has already been filed on behalf of the plaintiff.

3. Arguments heard.

4. It is submitted by learned counsel for applicant / defendant no. 1 that he was served with the summons of the present case on 17.04.2023. Thereafter, main counsel of defendant no. 1 suffered from viral fever and for a considerable period, he has to undergo medical observation and bed rest.

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Thereafter, in the month of May and June the authorised representative of defendant no. 1 was actively travelling throughout the Country and abroad regarding his business commitments. Thereafter, on 12.07.2023, defendant no. 1 moved an application under Section 10 of CPC for stay of the instant suit, which is still pending. Due to these reasons, the written statement could not be filed within stipulated period and delay of 90 days was caused in filing the written statement. Same may be condoned.

5. On the other hand, learned counsel for plaintiff opposed the application. He argued that there is a considerable delay in filing the written statement. No reasonable grounds for condoning the delay are mentioned by the applicant. The application is without any merit and same may be dismissed and written statement filed on behalf of defendant no. 1 may not be taken on record.

6. I have considered the submissions of both the parties and perused the records. It is not disputed that service of summons was effected on 17.04.2023 and written statement was filed on 15.08.2023. If the day of service is excluded, then initial 30 days are to be counted from 18.04.2023 and written statement was to be filed up to 17.05.2023. However, the same was not filed within the statutory period of 30 days but has been filed with a delay of 90 days i.e. on 15.08.2023. As per Rule 4 of Chapter VII of the Delhi High Court (Original Side) Rules, 2018, the period in filing the written statement may be extended for a further period of 90 days from the initial 30 days if the defendant shows any sufficient cause or exceptional and unavoidable reasons which prevented him to file the written statement within time, but subject to cost.

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7. In the present case, the reasons stated by the defendant no. 1 are that the authorised representative was travelling at the relevant time and further that main counsel was suffering from viral fever. Although there is no document filed on behalf of the applicant in support of the grounds taken by him, however, in the interest of justice, the delay in filing the written statement by defendant no. 1 stands condoned subject to a cost of Rs. 8,000/- to be given to the opposite party, on sharing the necessary particulars.

8. The captioned IA is allowed and **disposed of**.

I.A. No. 10108/2024(by defendant no. 2 for condonation of delay of 80 days in filing the written statement)

9. Reply has already been filed.

10. Arguments heard.

11. It is submitted by learned counsel for defendant no. 2 / applicant that defendant no. 2 had received the summons on 30.11.2023. Due to continued travelling programme of defendant no. 2 because of his work commitments, the written statement could not be filed within the stipulated period, therefore, the delay in filing the written statement may be condoned.

12. On the other hand, learned counsel for plaintiff opposed the application stating that defendant no. 2 had not filed the written statement within statutory period despite having sufficient time after receiving the summons. There is no reasonable ground stated by the applicant which prevented him in filing the written statement within time. The application is without any merit and same is liable to be dismissed.



13. I have considered the submissions of both the parties and perused the records. It is admitted fact that service was effected on 30.11.2023 and written statement was filed on 19.03.2024. Therefore, written statement was filed on 110th day from the date of service i.e. after the delay of 80 days from the initial period of 30 days. As per Rule 4 of Chapter VII of the Delhi High Court (Original Side) Rules, 2018, the period in filing the written statement may be extended for a further period of 90 days from the initial 30 days if the defendant shows any sufficient cause or exceptional and unavoidable reasons which prevented him to file the written statement within time, but subject to cost.

14. No any document placed on record by defendant no. 2 to show any travel history of defendant no. 2 at the relevant time. However, in the interest of justice and in view of the facts and circumstances, the delay in filing the written statement by defendant no. 2 stands condoned subject to a cost of Rs. 5,000/- to be given to the opposite party, on sharing the necessary particulars.

15. The captioned IA is allowed and **disposed of**.

I.A. No. 10109/2024(by defendant no. 2 for condonation of delay of 12 days in re-filing the I.A. No. 10108/2024)

16. Arguments heard.

17. As per learned counsel for the applicant, there is a delay of 12 days in re-filing the aforesaid application which was caused due to ill health of the counsel and same may be condoned. On the other hand, learned counsel for plaintiff opposed the application stating that the application is without any merit and is liable to be dismissed.

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18. I have considered the submissions. Keeping in view the entire facts and circumstances as well as order on the I.A. No. 10108/2024, the delay in re-filing the I.A. No. 10109/2024 is condoned subject to a cost of Rs. 2,000/- to be deposited with the Delhi High Court Legal Services Committee.

19. The captioned IA is allowed and **disposed of**.

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20. Written statement filed by defendant no. 1 & 2 be accordingly taken on record.

21. Put up for completion of pleadings in accordance with law and completion of process of filing of Joint Document Schedule in terms of **Rule 7A of Chapter VII of The Delhi High Court (Original Side) Rules, 2018** physically by plaintiffs after getting it signed from defendants, admission / denial of documents and marking of Exhibits in accordance with law on 02.04.2025.

22. Documents, if e-filed be filed physically by parties so as to mark the Exhibits.

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

NOVEMBER 29, 2024/sms

Click here to check corrigendum, if any

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