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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(OS) 172/2021**
RAJINDER SINGH BHATIA Plaintiff
Through: Mr. Abhishek Aggarwal, Advocate.

versus
MANJU BHATIA Defendant
Through: Mr. Manoj Singh, Advocate.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **05.04.2022**

I.A. 5258/2022 (on behalf of Defendant/ Counter Claimant for allowing the filing of rejoinder/replication)

1. By way of the instant application, the following prayers are made:

“(…) may kindly be pleased to allow the defendant / counter claimant to file replication/rejoinder in CS(OS)No. 172/2021 in (i) I.A. No.9926/2021, and in (ii) Crl. M.A No. 12492/2021 and replication/rejoinder in CC No.8/2021, and also allow to file an application under Order VII RULE 11 of CPC for rejection of the plaint in CS(OS) No. 172/2021 which may also be allowed to filed by this Hon'ble Court in the interest of justice.”

2. Counsel for the non-Applicant draws the attention of this Court to order dated 4th March, 2022, whereby, the Defendant/ Counter-Claimant/ Applicant's right to file the rejoinder to (i) I.A. 9926/2021 and (ii) Crl. M.A No. 12492/2021, stands closed.

3. Counsel for the Plaintiff states that if the Defendant was aggrieved with the aforesaid, the appropriate remedy would have been to file an appeal. The counsel for the Plaintiff states that the last hearing before the Joint Registrar took place *via* a hybrid mode and due to technical difficulty, he could not properly address this Court. Nevertheless, he submits that there is



only a short delay in filing the rejoinders and the same may be taken on record.

4. Considering the fact that there is only a delay in filing the rejoinders, dismissing this application and permitting the Counter Claimant to file an appeal assailing the closure of the right would only result in further delay of the proceedings.

5. Accordingly, the application is treated as an appeal against the order of the Joint Registrar.

6. For the delay caused in filing the rejoinders, the Counter Claimant is burdened with a cost of Rs. 5,000/- which shall be paid to the counsel for the Plaintiff.

7. With the above direction, the appeal is allowed and Defendant/ Counter Claimant is permitted to file the rejoinder within two weeks after payment of cost.

8. Further, the prayer of the Counter Claimant seeking permission to withdraw the application under Order 7 Rule 11 of the CPC, stands deleted as per the statement of the counsel for the Applicant.

9. With the above directions, the application is disposed of.

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10. List on the date already fixed i.e., on 18th May, 2022 for consideration of the pending applications.

SANJEEV NARULA, J

APRIL 5, 2022/nk