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

+ **CS(OS) 318/2023**

RAJIV NARULA

.....Plaintiff

Through: Mr. Ashray Chopra & Mr. Rakesh
Talukdar, Advs.

versus

SUMITRA NARULA & ORS.

.....Defendant

Through: Mr. Bhavishya Mehra, Adv. for all
defendants with D-2 in person
(through VC).

CORAM:

**JOINT REGISTRAR (JUDICIAL) SH. DEVENDER
KUMAR GARG (DHJS)**

ORDER

11.01.2024

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**CS(OS) 318/2023 & I.A. No. 9745/2023 (by plaintiff u/O
XXXIX Rules 1 & 2 of CPC)**

1. No written statement, affidavit of admission/denial of documents and reply to the captioned IA has been filed on behalf of the defendants.
2. Ld. Counsel for plaintiff has submitted that statutory period for filing written statement by the defendants has already expired and hence, their written statement cannot be taken on record and right of the defendant to file the same may be closed.
3. Heard. Perusal of record would show that vide order dated 25.08.2023, defendants were served and directed to file their written statement and affidavit of admission/



denial of documents as per law, but no written statement and affidavit of admission/denial of documents has been filed on behalf of the defendants till date. The statutory period for filing written statement by the defendants has already expired. The defendants have also failed to file any reply to captioned IA despite sufficient opportunities given to them.

4. It has been observed by Hon'ble High Court of Delhi in judgment titled as ***“Col. Ashish Khanna SM Retd. vs. Delhi Gymkhana Club & Ors.”*** dated 21.08.2023 in ***CS(OS) 171/2022*** as under:

“20. In Charu (Supra), the Division Bench has very emphatically held the inviolability of the hard stop period of 120 days prescribed in Rule 4 for filing the written statement. Court re-stated the principles laid down in Gautam Gambhir (Supra) and Harjyot Singh (Supra), and declared that they act as binding precedents on the issue.

As of now, Charu (Supra) has laid to rest the debate on the ability of courts to condone delay in filing of written statement beyond 120 days in a non-commercial suit. Rule 4 circumscribes the power of court to condone the delay beyond the maximum permissible time of 120 days.”

5. Keeping in view of the facts & circumstances of the case and relying upon judgment titled ***“Col. Ashish Khanna SM Retd. vs. Delhi Gymkhana Club & Ors.”*** (Supra), right of all the defendants to file written statement, reply to the captioned IA affidavit of admission/denial stands closed.
6. At request, interim orders in terms of the order dated 24.07.2023 is extended till next date of hearing.
7. Ld. Counsel for plaintiff has submitted that the present matter may be placed before the Hon'ble Court where he would make his further submissions.



8. At request, let the matter be placed before the Hon'ble
Court for further directions on **04th March, 2024.**

DEVENDER KUMAR GARG (DHJS)
JOINT REGISTRAR (JUDICIAL)
JANUARY 11, 2024/v
Click here to check corrigendum, if any