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

+ **CS(COMM) 220/2019**

M/S. SOLOMAN ENGINEERS PVT. LTD. Plaintiff

Through: **Dr. Anurag Kr. Agarwal, Mr.
Ram Gupta, Ms. Suhansi Yadav
and Mr. P. Agarwal, Advs.**

versus

DELHI DEVELOPMENT AUTHORITY & ORS.

..... Defendants

Through: **Ms. Manika Tripathy, Standing
Counsel (DDA) with Mr.
Ashutosh Kaushik (DDA), Ms.
Deepti Sharma, Mr. Manish
Vashist and Mr. Shubham,
Advs.
Mr. Anurag Ojha and Mr.
Gautam Barnwal, Advs. for D-4
Dr. Surat Singh with Shivam,
Advs. for D-4**

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

ORDER

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19.04.2023

O.A. 7/2023(O.D. 08-12-2022)

1. The present Chamber Appeal is directed against an order dated 08 December 2022 taking the written statement filed by defendant no.1 off the record.
2. The Joint Registrar has essentially taken into consideration the directions which were framed by the Court in its order of 14 October 2019 and which had provided for a written statement being filed latest by 21 October 2019 and the Court further observing that failing the written statement being filed by the said date, the right of defendant nos.1, 2 and 4 would stand closed without any further orders.



3. Before this Court, it is undisputed that although summons were served on 03 June 2019, a copy of the plaint and the complete paper book were directed to be supplied to the Chamber Appellant in terms of an order of 25 July 2019 passed by the Joint Registrar. Compliance of the aforesaid order was effected ultimately on 31 July 2019. It was, thereafter, that the order of 14 October 2019 came to be passed.

4. However and in terms of Rule 4 falling in Chapter VII of the Delhi High Court (Original Side) Rules, 2018 [the Rules], a written statement is liable to be filed within a maximum period of 120 days. When the aforesaid period is computed from 31 July 2019, undisputedly the Chamber Appellant would have had the right to file a written statement by 28 November 2019. The written statement was ultimately filed on 22 October 2019 and thus within the maximum period of 120 days.

5. The Court notes that while it may have been observed in the order of 14 October 2019 that the written statement was to be filed latest by 21 October 2019, the same would have to necessarily be read in light of Rule 4 noticed above. The Court finds itself unable to hold that the Chamber Appellant would stand deprived of the time which is otherwise granted under the applicable Rules.

6. Learned counsel appearing for the plaintiff has additionally submitted that the written statement which ultimately came to be filed on 22 October 2019 was not accompanied by an affidavit of admission and denial and was thus a *non est* filing. The Court notes that the aforesaid submission would not sustain in light of the decision rendered by a learned Judge of the Court in **Cosco International Pvt. Ltd. v. Jagat Singh Dugar**, [Judgment dated 06 April 2022 in CS (COMM) 1052/2018].

7. In view of the aforesaid facts, the order dated 08 December



2022 shall stand set aside. The ~~written~~ statement shall form part of the record.

8. The plaintiff may file a replication in accordance with Rule 5 falling in Chapter VII of the Rules.

9. Let the matter be placed before the concerned Joint Registrar on 21.07.2023 for completion of pleadings.

YASHWANT VARMA, J.

APRIL 19, 2023

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