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

+ **CS(OS) 224/2020**

MRS. RAJBALA SAIN AND ORS Plaintiffs

Through: Mr. Rohit Agrawal, Adv

versus

MR. C.L. SAIN AND ORS Defendants

Through: Ms. Nidhi Mehrotra, Adv (through VC)
with Mr. Pradeep Sain, Adv for D1
(9318310538) (pradeepsain.cic
@gmail.com)

CORAM:

MS. VANDANA JAIN (DHJS) JOINT REGISTRAR(JUDICIAL)

ORDER

% **09.11.2022**

Pleadings qua D-1 to 6 in main suit are complete.

Right to file the written statement on behalf of D7 to 9 has already been closed vide order dated 19.07.2022.

Proceedings qua D-10 have already been abated.

Hard copy of documents filed by plaintiff

Joint Document Schedule not filed. Learned counsel for plaintiff submits that he had already sent the Joint Document Schedule to learned counsel for D1 for signing the same on 31.08.2022 for the first time, but same was never returned back. The same was again sent for signing on 02.11.2022 which has not been received back till date and therefore, he could not file the same.



Learned counsel for D1 submits that in the Joint Document Schedule, a document filed alongwith replication has been incorporated which cannot be done as it is the document filed subsequent to the filing of the present suit without seeking leave of the Court.

Learned counsel for defendant No.1 submits that this is the reason that Joint Document Schedule was not signed and returned back to the plaintiffs' counsel.

I have heard the submissions of learned counsel for parties and perused the record carefully.

Record shows that replication to the written statement of D1 alongwith affidavit of admission/denial and a copy of cheque was filed which is duly recorded in the order dated 25.03.2022. It is pertinent to mention here that learned proxy counsel for D1 was present on that day but no such objection was taken. Since 25.03.2022, no application or verbal submissions with respect to the objection to the document filed with the replication have ever come on record.

Perusal of the record further shows that written statement in the present case was taken on record on 17.12.2021 and the directions was given to file the replication. The provisions of Civil Procedure of Code are very clear to the extent that once the direction to file the replication is given, it becomes part of pleadings and any document filed alongwith the said pleading does not require any further approval. Hence, no separate application seeking leave to file the said document alongwith replication was warranted.



Perusal of the record further shows that no additional affidavit of admission/denial to the said document has been filed by D1 and therefore, the said document is deemed to be admitted.

In the interest of justice, one last and final opportunity is granted to D1 to sign the Joint Document Schedule within two days and return the same back to counsel for plaintiffs within the same time period so that plaintiffs can file the same physically.

Joint Documents Schedule be filed physically by plaintiffs within a week thereafter. Hard copy of documents not filed by D1 despite giving directions. Last and final opportunity is granted to file the same with a week, subject to cost of Rs 5,000/- payable to plaintiffs.

Put up for marking of exhibits to the documents on 06.01.2023.

VANDANA JAIN (DHJS)
JOINT REGISTRAR(JUDICIAL)

NOVEMBER 9, 2022
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