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

+ CS(COMM) 284/2019 and IA No. 7973/2019 (application filed by the plaintiff u/O XL Rule 1 CPC)

SHALU WALIA

..... Plaintiff

Through: Mr. Humraz Bir Singh,
Advocate appeared
physically

versus

ALOK NANDA & ORS.

..... Defendants

Through: Mr. Sanjay Kumar Mishra,
Advocate for Defendant
no.1 appeared physically
Mr. Abhiesumat Gupta,
Advocate for Defendant
nos. 4 and 5 appeared
physically

CORAM:

JOINT REGISTRAR (JUDICIAL) MS. TYAGITA SINGH, (DHJS)

ORDER

% **19.01.2023**

Matter is taken up through physical hearing as well as video conferencing.

As per order of the Hon'ble Court dated 17.10.2022, this matter has been listed before this court for ascertaining the status of appearance of defendants and status of filing of their written statements.

In this regard, the entire file noting and previous orders have been perused by the undersigned and submissions of both the parties present have been heard.

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Printout of the filing status of the case has been taken and placed on record of the physical file.

Learned counsel for defendant nos. 4 and 5 has also placed on record a chart reflecting the relevant dates of service and appearance and filing of written statement of defendants, and same is taken on record.

Perusal of the previous file noting reveals that defendant nos. 1 to 4 had been served by way of Speed Post by the month of August, 2019. Thereafter, all the defendants no. 1 to 5 were again served by way of Speed Post as well as ordinary mode as per file noting dated 01.10.2019.

File noting further reveals that vakalatnama was filed on behalf of defendant nos. 2 and 3 on 13.08.2019, vakalatnama on behalf of defendant nos. 4 and 5 was filed on 12.09.2019 and vakalatnama on behalf of defendant no.1 was filed on 20.11.2019.

File noting also reflects that written statement alongwith affidavit of admission/denial and copy of documents were filed by defendant nos. 4 and 5 on 12.09.2019.

Learned counsel for defendant no.1 has stated that he had filed written statement on behalf of defendant no.1 vide Dy. No. 1621277 on 25.11.2019 which was returned under objections and it was re-filed on 24.12.2019 vide the same diary number, but in the meantime, the right of defendant no.1 to file written statement was closed on 17.12.2019 due to which written statement re-filed by defendant no.1 was not taken on record.



However, there is no file noting by the concerned official of the Registry in respect of filing of written statement by defendant no.1 on 25.11.2019. But it is mentioned in file noting that written statement was re-filed by defendant no.1 alongwith affidavit of admission/denial on 24.12.2019 vide Dy. No. 1621277 alongwith reply to application under Order 39 Rules 1 and 2 CPC.

Perusal of the order dated 17.12.2019 of the learned Predecessor reveals that right of defendant nos.1 and 3 to file written statement was closed. Right of plaintiff to file replication to written statement of defendant nos. 4 and 5 was also closed vide the said order.

As per PDF file of the case, written statement of defendant no.2 is on record. Right of plaintiff to file replication to written statement of defendant no.2 was closed vide order dated 13.02.2020.

Thus, as per record, written statement of defendant nos. 2,4 and 5 is on record and pleadings are complete qua defendant nos. 2,4 and 5.

File noting reflects that the Joint Documents Schedule was e-filed by learned counsel for the plaintiff on 25.03.2021 qua defendant nos. 4 and 5.

Perusal of the previous orders reveals that after 27.11.2019, no counsel has put up appearance on behalf of defendant no.2. Defendant no.3 had never filed any pleadings/written statement.



Though, learned counsel for defendant no.1 is regularly appearing in the case, but he had not taken any steps for setting aside the order dated 17.12.2019 vide which right of defendant no.1 to file written statement was closed. Though, the PDF file of the case reveals that written statement of defendant no.1 is lying in the file, however technically written statement of defendant no.1 was not on record when his right to file written statement was closed vide order dated 17.12.2019.

Perusal of the orders dated 25.11.2019 and 22.12.2021 reveal that admission/denial qua defendant nos. 4 and 5 had already been concluded on 25.11.2019. Plaintiff had denied all the documents of defendant nos. 4 and 5.

Defendant no.2 had denied all the documents of the plaintiff. It is stated by learned counsel for plaintiff that defendant no.2 had not filed any documents. **Hence, the stage of admission/denial is already complete qua defendant nos.2,4 and 5.**

Matter is already coming up before the Hon'ble Court on 27th January, 2023, for further directions.

TYAGITA SINGH, (DHJS)
JOINT REGISTRAR (JUDICIAL)

JANUARY 19, 2023
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