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

+ **CS(COMM) 396/2019**

KAPIL BUILDERS

..... Plaintiff

Through Proxy counsel Mr. Ashutosh Rana for
Sh. Jai Sahai Endlaw, Advocate
(through VC)

versus

AERO PROMOTORS P(P) LTD. & ORS. Defendants

Through Mr. Harsh Sethi and Ms.
Sarvpriya Makkar, Advs. for D-1, 4 &
5 (in person)
Mr. Lenoy Vergehese, Advocate for
D-2 & 3 (through)

CORAM:

JOINT REGISTRAR (JUDICIAL) MS. SURYA MALIK GROVER (DHJS)

ORDER

% **11.12.2020**

Today is physical hearing of this Court vide office Order No.7974/I/ORG./DHC/2020 dated 28.11.2020.

Learned counsel for defendant no.2 &3 submits that his written statement has already been filed along with affidavit of admission/denial on 12.03.2020. Further, application seeking condonation of delay was moved vide Diary no.388893 dated 19.03.2020, which was returned under objections.

Ld. counsel for defendants no.2 &3 is directed to re-file condonation application after removal of objections furnishing the details of previous filing within two weeks positively, which shall be considered on merits.



Learned counsel for Defendant no.1,4 & 5 submits that written statement alongwith affidavit of admission/denial and application seeking condonation of delay were initially filed on 03.12.2019 vide diary no.1492436, 1490857 and 1609307 respectively, but returned under objections. It is further submitted that written statement, copies of documents, admission/denial affidavit and Vakalatnama were re-filed after removal of objections on 21.12.2020 vide Diary Nos. 1609307, 1609269, 1609266 and 1609301 respectively. It is submitted that due to outbreak of Covid pandemic, there has been an unintentional delay in bringing the written statement on record, and in order to avoid any further delay, written statement may be taken on record.

Learned proxy counsel for plaintiff seeks short adjournment to take instructions regarding aforesaid submissions.

Meanwhile, counsel for defendants no.1,4 & 5 is directed to find out the status of his application and in case not traceable, re-file the same through e-filing, furnishing the details of previous filing along with condonation application within two weeks positively, which shall be considered on merits.

At this stage, learned proxy counsel for plaintiff submits that replication as well as condonation application were filed by plaintiff vide diary no.1490796/2019, without prejudice to its right to contest taking on record of written statements of defendants, but returned under objections and permission may be granted to re-file the same.

Plaintiff is granted liberty to re-file replication along with condonation application through e-filing, furnishing the details of previous filing along with condonation application within two weeks



positively, which shall be considered on merits.

It is made clear that mere directions/ grant of liberty to file/ re-file application shall not create any right in favour of any of the parties and pleadings shall form part of the record only in accordance with the provisions of Commercial Courts Act read with amended Delhi High Court Rules.

List the matter for completion of pleadings on 03.02.2021 at 12:00 noon.

**SURYA MALIK GROVER (DHJS)
JOINT REGISTRAR (JUDICIAL)**

DECEMBER 11, 2020/rr