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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(OS) 439/2020, I.A. 48585/2024

SMT. BHAGWATIPlaintiff

Through: Mr. Manish Sangwan, Adv. (Through VC)

versus

SH. MANOJ KUMAR & ORS.Defendant

Through: Mr. Nitin Bansal, Mr. Madan Kumar Jha,
Adv. for D-4 (Through VC)
Mr. Animesh Kumar Gaba, Adv. for DDA
Mr. Ravi Bassi, Mr. Sanyam Malik, Advs. for
D-6

CORAM:

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

ORDER

% **24.05.2025**

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

I.A. 48585/2024 (Application u/S. 5 Limitation Act filed by defendant no.4 M/s. Dhingra Estates Pvt. Ltd. for condonation of delay in filing Written Statement)

1. Vide this order, I shall decide the aforesaid application for condonation of delay in filing Written Statement of defendant no.4.

2. Brief facts as mentioned in the application are as under :

2.1 That defendant no.4 entered appearance in the present case on 4.12.2023 and he was directed to file Written Statement within 30 days. Defendant no.4 filed Written Statement alongwith affidavit of admission/denial vide Diary no. 9521/2024 and 9522/2024 dated 03.01.2024 within stipulated period but various objections were raised by the Registry which were removed and Written Statement was re-filed.



2.2 The defendant no.4 has further stated that Registry had raised objection qua the Court fees and the court fees was paid as per objection raised by the Registry but the Registry kept on raising objections again and again due to which delay of about 205 days in re-filing the Written Statement has been caused.

2.3 On the basis of abovestated grounds, defendant no.4 has prayed for condonation of delay of 205 days in re-filing Written Statement.

3. Plaintiff preferred not to file Reply. Oral arguments on behalf of both the parties were heard on the last date and matter was kept for order for today. During oral arguments, Ld. counsel for plaintiff strongly opposed the application on the ground that long delay in filing and re-filing Written Statement has been caused and no sufficient cause for condonation of delay has been mentioned in the application.

BRIEF REASONS FOR DECISION AND DECISION THEREOF

4. Perusal of previous orders reveals that defendant no.4 had remained unserved till 11.08.2023 and plaintiff was again directed to take steps for service of defendant no.4 vide order dated 11.08.2023. Perusal of file noting reveals that PF was not filed by plaintiff after 11.08.2023 due to which summons could not be issued to defendant no.4.

5. However, Ld. Counsel for defendant no.4, namely Sh. Nitin Bansal, Advocate appeared on behalf of defendant no.4 in court of Ld. Predecessor on 04.12.2023 for the first time and requested for supply of copy of plaint and documents. Plaintiff was directed to supply copy of complete set within one week and defendant no.4 was granted 30 days time for filing Written Statement.



6. Perusal of file noting reveals that Written Statement alongwith affidavit of admission/denial was filed by defendant no.4 vide diary no. 9521/2024 and 9522/2024 which was returned under office objections due to various objections including insufficient court fees.

7. However, it is pertinent to note that replication was filed by plaintiff to the Written Statement of defendant no.4 alongwith Replication to the Written Statements of defendant no.6 and 7 vide diary no. 226535/2024 and it was cleared by the Registry as per file noting dated 27.03.2024. Perusal of subsequent file notings reveals that the objections were removed by defendant no.4 and Written Statement was re-filed many times but it was again returned under objections due to various reasons.

8. Keeping in view the abovestated facts and circumstances as well as various file notings and previous orders, it is clear that service of summons was never completed by plaintiff upon defendant no.4. Therefore, defendant no.4 is deemed to have been served on 04.12.2023 when Ld. Counsel for defendant no.4 had put up appearance for the first time. Plaintiff has not filed any Reply to the present I.A. and has not mentioned any date when he had supplied copy of plaint and documents to defendant no.4.

9. . In the application, defendant no.4 has stated that Written Statement was filed alongwith affidavit of admission/denial for the first time on 03.01.2024 vide diary no. 9521/2024 and 9522/2024. Therefore, there is no delay in filing Written Statement as the Written Statement was filed within 30 days from date of first appearance of defendant no.4 through counsel. However, delay has been caused in re-filing the Written Statement due to various objections raised by the Registry from time to time as mentioned in the application.



10. Therefore, in the interest of justice, application stands allowed delay in re-filing the Written Statement is condoned and Written Statement of defendant no.4 is taken on record subject to subject to cost of Rs. 5000/- to be paid by defendant no.4 to plaintiff and subject to removal of any other objection raised by the Registry within two weeks. **I.A. stands disposed off.**

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Written Statement of defendant no.4 has been taken on record today subject to removal of any other objection raised by the Registry within two weeks. Replication has already been filed by plaintiff. **Pleadings are complete qua defendant no.4. Pleadings are already complete qua defendant no.6 and 7.** Right of defendants no. 1 to 3 and 5 to file Written Statement has already been closed.

Joint Document Schedule be filed by the plaintiff within four weeks, after obtaining comments and signatures from Ld. counsels for defendants no. 4,6 and 7. Parties are directed to file signed pleadings and hard copy of documents on record within four weeks with the Registry.

Be fixed for admission/denial and marking of exhibits on 18.09.2025. The parties/counsels are directed to appear physically with original documents on the next date of hearing.

**TYAGITA SINGH, (DHJS),
JOINT REGISTRAR (JUDICIAL)**

MAY 24, 2025/SM