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

\+ CS(COMM) 468/2019

M/S FORTIS HOSPITALS LIMITED

.....Plaintiff

Through: Ms. Vatsala Rai with Mr. Saurabh Batra, Advs.

versus

M/S BEST HEALTHCARE PRIVATE LIMITED & ORS.

.....Defendant

Through: Ms. Devina Sehgal with Mr. Mohd. Ashaab, Advs. for D-1 to 3 (through VC).

Mr. Sandeep Das, Ms. Anandini Rathore & Mr. Tejasvi Mahajan, Advs. for D-9.

None for D-4 to 8.

CORAM:
JOINT REGISTRAR (JUDICIAL) SH. DEVENDER KUMAR GARG (DHJS)

O R D E R

% 13.11.2024

Proceedings are being conducted through hybrid mode.

I.A. No.357/2021 (by D-9 for dismissal of suit qua D-9);

IA. No.3764/2021 (by D-3 for dismissal of suit qua D-3);

IA. No.3765/2021 (by D-1 for dismissal of suit qua D-3);

IA. No.4077/2021 (by D-2 for dismissal of suit qua D-3);

I.A. No.426/2022 (moved by D-2 u/S 8 of Arbitration & Conciliation Act);

I.A. No.427/2022 (moved by D-1 u/S 8 of Arbitration & Conciliation Act) &

I.A. No.428/2022 (moved by D-3 u/S 8 of Arbitration & Conciliation Act).

1. It is submitted that the captioned IAs are coming up for hearing before the Hon'ble Court on 21.11.2024.

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I.A. No. 3463/2020 (by D-6 & 7 for condonation of delay of 7 days in filing WS)

2. Today the captioned IA is listed for arguments as last opportunity.
3. There is no appearance on behalf of defendants no.6 & 7.
4. In the interest of justice, one more opportunity is granted to the defendants no.6 and 7 for addressing arguments qua the captioned IA.
5. Re-notify the captioned IA for arguments on the next date of hearing.

I.A. No. 4183/2024 (by plaintiff u/O XIII Rule 2 of CPC seeking summary judgment against D-1 to 3)

6. No reply to the captioned IA has been filed by defendants no.1 to 3 despite last opportunity. Some more time has been sought. Same has been opposed. Heard. Right of defendants no.1 to 3 to file reply to the captioned IA is closed.

I.A. No. 11768/2019 (by plaintiff for stay)

7. No reply to the captioned IA has been filed on behalf of defendants. It appears that already sufficient opportunities have been granted to the defendants for filing reply to the captioned IA stands closed.

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8. Perusal of record shows that vide order dated 18.03.2024, written statements on behalf of defendants no.1 to 3 were taken on record subject to payment of cost of Rs.2,000/- by each defendant to the plaintiff. Proof of payment of said costs has already been filed on behalf of defendants no.1 to 3. However, written statement filed on behalf of the defendants no.1 to 3 vide diary no.1190821/2021,

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1190832/2021 and 1190840/2021 are still lying under objection. Let appropriate steps be taken as per law. Report be also called from Registry in this regard for next date of hearing.

9. Perusal of record shows that separate replications and affidavits of admission/denial of documents were filed on behalf of plaintiff qua defendants no.1 to 3.

10. No affidavit of admission/denial of documents has been filed by defendants qua the documents of plaintiff, which were filed vide diary nos. 1167055/2024, 1167056/2024 and 1167075/2024. The same may be filed within four weeks as last opportunity.

11. Perusal of record shows that written statement, affidavit of admission/denial of documents and documents with list of documents were already filed on behalf of the defendants no.5 and 8. However, no application seeking condonation of delay in filing the same has been filed on behalf of defendants no.5 and 8 till date.

12. Ld. Counsel for plaintiff has submitted that the written statement filed on behalf of defendants no.5 & 8 may be taken off the record as same was filed beyond statutory period.

13. Heard. Perusal of record would show that defendants no.5 and 8 had entered appearance through their counsel on 07.02.2020 and sought time to file written statement. Perusal of record further shows that written statement and affidavit of admission/denial of documents were filed on behalf of defendants no.5 & 8 vide diary no.1190941 dated 31.12.2021. No application for condonation of delay in filing written statement has been filed on behalf

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of defendants no.5 and 8 till date. The statutory period for filing written statement and affidavit of admission/denial of documents by defendants no.5 and 8 from the date of their service i.e. 07.02.2020 has already expired. In present facts, written statement and affidavit of admission /denial of documents filed on behalf of the defendants no.5 and 8 vide diary no.1190941/2021 be taken off the record.

14. Perusal of record further shows that written statement alongwith affidavit of admission/denial of documents and documents with list of documents was filed on behalf of defendants no.6 and 7. However, an application seeking condonation of delay in filing the written statement is pending for consideration.

15. Perusal of record further shows that written statement was already filed on behalf of defendant no.9.

16. As per office noting, affidavit of admission/denial was filed physically on behalf of defendant no.9 vide diary no.51513/2020 and the same is on record. However, the same is not available in soft copy of the judicial record. Registry/Portfolio is directed to place soft copy of the affidavit of admission/denial of documents filed on behalf of defendant no.9 in soft copy of judicial record.

17. Office noting further reveals that documents were filed physically on behalf of defendant no.9 vide diary no. 54882/2020 and the same is on record. However, the same is not available in soft copy of the judicial record. Registry/Portfolio is directed to place soft copy of the documents filed on behalf of defendant no.9 in soft copy of judicial record.

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18. Perusal of record also indicates that replication to written statement of defendant no.9 and affidavit of admission/ denial of documents were already filed by the plaintiff.

19. Perusal of order dated 18.03.2024 would show that the replication filed by plaintiff qua defendant no.9 was taken on record subject to cost of Rs.2,000/- to be paid by the plaintiff to defendant no.9. However, the said cost has not been paid by the plaintiff. Let the same be paid before next date of hearing subject to providing their account details.

20. Let the pleadings be completed as per law.

21. Re-notify the matter for completion of pleadings and further proceedings on **11th February, 2025.**

DEVENDER KUMAR GARG (DHJS)
JOINT REGISTRAR (JUDICIAL)

22. At this stage, at 01:25 p.m., Mr. Sahli Chandra, Advocate for D-5 & 8 has appeared and he has been apprised about today's proceedings and next date of hearing.

DEVENDER KUMAR GARG (DHJS)
JOINT REGISTRAR (JUDICIAL)
NOVEMBER 13, 2024/v

Click here to check corrigendum, if any

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