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

+ **CS(OS) 603/2022**

SMT. RASHMI KATYAL

.....Plaintiff

Through: Mr. Bhumika Sharma, Ms. Manju
Jain, Ms. Sunita Sharma and Mr.
Varun Sharma, Advs.

versus

SMT CHANDER KANTA

.....Defendant

Through: Ms. Sajal Dhamija, Adv. (through
VC).

CORAM:

**JOINT REGISTRAR (JUDICIAL) SH. DEVENDER
KUMAR GARG (DHJS)**

ORDER

03.04.2024

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Proceedings are being conducted through hybrid mode.

**CS(OS) 603/2022 & I.A. No. 15969/2022 (by plaintiff u/O
XXXIX Rules 1 & 2 of CPC)**

1. As per office noting, written statement filed on behalf of the defendant vide diary no.69875/2024 was returned under objection.
2. Office noting further shows that IA filed on behalf of defendant vide diary no.69880/2024 was also returned under objection.
3. Reply to the captioned IA has also not been filed on behalf of the defendant.
4. Ld. Counsel for plaintiff has submitted that statutory period for filing written statement by the defendant has already expired and hence, right of the defendant to file written statement may be closed.



5. Heard. Perusal of order dated 01.12.2022 would show that the defendant entered appearance through counsel and submitted that he had not received copy of complete paper and accordingly, plaintiff was directed to supply the same to the defendant within two days and defendant was directed to file written statement within prescribed period and the matter was adjourned for 06.03.2023.
6. Ld. Counsel for plaintiff has submitted that he had already supplied copy of complete paper book to Ld. Counsel for defendant in terms of order dated 01.12.2022. Perusal of order dated 06.03.2023 would also show that counsel for defendant had appeared and no submission was made on behalf of the defendant that the defendant had not received copy of complete paper book in terms of order dated 01.12.2022, which shows that the defendant had already received copy of complete paper book before 06.03.2023. However, written statement has been filed on behalf of the defendant in the matter vide diary no.69875/2024 on 13.01.2024, which has not come on record till date and same is lying under objection. The application for condonation of delay stated to be filed on behalf of the defendant has also not come on record till date. The statutory period of 120 days for filing written statement and affidavit of admission/denial of documents on behalf of the defendant has already expired long back even from the date of 06.03.2023.
7. The undersigned would like to rely upon judgment titled as ***“Col. Ashish Khanna SM Retd. vs. Delhi Gymkhana Club & Ors.” in CS(OS) 171/2022 dated 221.08.2023*** wherein following observations have been made:



“20. In Charu (Supra), the Division Bench has very emphatically held the inviolability of the hard stop period of 120 days prescribed in Rule 4 for filing the written statement. Court re-stated the principles laid down in Gautam Gambhir (Supra) and Harjyot Singh (Supra), and declared that they act as binding precedents on the issue.

As of now, Charu (Supra) has laid to rest the debate on the ability of courts to condone delay in filing of written statement beyond 120 days in a non-commercial suit. Rule 4 circumscribes the power of court to condone the delay beyond the maximum permissible time of 120 days.”

8. Keeping in view the above said facts & circumstances and fact that statutory period for filing written statement and affidavit of admission/denial of documents on behalf of the defendant has already expired, right of defendant to file the same stands closed.
9. Perusal of record further shows that many opportunities have been given to the defendant for filing reply to the captioned IA, however, the same has not been filed till date. Hence, right of the defendant to file reply to the captioned IA also stands closed.
- 10.Ld. Counsels for parties have submitted that the matter may be placed before the Hon’ble Court where they would make their further submissions.
- 11.At joint request, let the matter be placed before Hon’ble Court for further directions on **20th May, 2024.**

**DEVENDER KUMAR GARG (DHJS)
JOINT REGISTRAR (JUDICIAL)**

APRIL 3, 2024/v

[Click here to check corrigendum, if any](#)