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

+ **CS(OS) 635/2022**

SMT. NEELAM SHOKEEN @ MONA Plaintiff
Through: Mr. Mahipal Khanagwal and Mr.
Md. Yanus, Advocate with
plaintiff in person.

versus

SMT. KRISHNA DEVI & ORS. Defendants
Through: Mr. Rajpal Gulia and Ms. Jagrati
Singh, Advocates for D-1.
Ms. Ankita Chaudhary and Mr.
Shreyas Balaji, Advocates for D-3.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER
15.01.2024

O.A. 132/2023 (against the Registrar's Orders in terms of Chapter II Rule 5 of the Original Side) and I.A. 24295/2023 (condonation of delay)

1. This chamber appeal has been filed by the appellant/defendant No.1, against an order of the learned Joint Registrar dated 11.10.2023, by which her right to file the written statement has been closed. By way of I.A. 24295/2023, the appellant/defendant No.1 seeks condonation of 27 days' delay in filing of the appeal.
2. Learned counsel for the appellant states that the delay in filing of the appeal has been occasioned due to her indisposition.
3. As far as the merits of the appeal are concerned, the undisputed position is that the appellant/defendant No.1 received summons in the suit

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prior to 05.12.2022. Her learned counsel entered appearance on the said date and was granted time to file the written statement within the time prescribed. The written statement was in fact filed under Diary No. 276701 on 17.02.2023, but remained under objection until 09.10.2023.

4. The filing of the written statement on 17.02.2023 was, thus, within the maximum condonable period of 90 days, after the expiry of the period of 30 days prescribed for filing of the written statement under the Original Side Rules of this Court. In the appeal, the appellant/defendant No.1 has stated that there was a miscommunication in the office of learned counsel, as a result of which the defects remained uncured until October 2023.

5. Having regard to the facts and circumstances of the case, and particularly to the fact that the written statement was originally filed within the maximum condonable period of delay, I am of the view that the written statement can be taken on record, subject to payment of costs by the appellant/defendant No.1 to the plaintiff.

6. The appeal and the application are disposed of with the direction that the written statement of defendant No.1 will be taken on record subject to payment of costs of ₹20,000/- by defendant No.1 to the plaintiff.

7. The appeal and the application stand disposed of.

I.A. 20377/2023 (under Order VII Rule 11)

This application, under Order VII Rule 11 of the Code of Civil Procedure, 1908 [“CPC”] has been filed by defendant Nos. 4 and 5, i.e. Ms. Reeta @ Bobby and Ms. Sarita Rana, although it is erroneously stated to have been filed by defendant Nos. 5 and 6. Defendant Nos. 4



and 5 are unrepresented today.

Learned counsel for the plaintiff may file a reply to the application within two weeks from today. Rejoinder thereto, if any, be filed within one week thereafter.

List before the Court on 06.05.2024.

I.A. 16827/2022 (Order XXXIX Rule 1 and 2)

This is an application filed by the plaintiff under Order XXXIX Rule 1 and 2 of the CPC, 1908. The plaintiff claims a share in the suit properties [*Property No. 240, measuring 250 Sq Yds, Plot bearing Khasra No. 16/21/2 measuring 500 Sq Yds and Plot bearing Khasra No. 70/1/2 measuring 65 Sq Yds, all at village Mangol Pur Kalan, Delhi*] by way of partition. Learned counsel for the appearing defendants state that they have no intention of creating any third party interest in the title, possession, nature and character of the suit properties. They are bound down to the aforesaid undertaking.

The application stands disposed of.

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1. A copy of the written statement filed by defendant No.1 be served upon learned counsel for the plaintiff in the course of the day.
2. The plaintiff is at liberty to file replication thereto within fifteen days from today. The replication shall be accompanied by affidavit of admission/denial in respect of the documents filed by the defendant No.1, failing which the replication shall not be taken on record. It is made clear that any unjustified denial of documents may lead to an order of costs.
3. List before the Joint Registrar for marking of exhibits and admission/denial of documents on 26.02.2024.



4. List before the Court on 06.05.2024.

JANUARY 15, 2024
SS/

PRATEEK JALAN, J