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IN THE HIGH COURT OF DELHI AT NEW DELHI

CS(OS) 664/2022

PRIYANKA SINGH

..... Plaintiff

Through: Ms. Nidhi Mohan Parashar &
Mr. Anand Chchra, Advs.

versus

GURSAMARJIT SINGH AND ORS. Defendants

Through: Mr. Vardhman Kaushik & Ms.
Sanjana Mehrotra, Advs. for
D-1&3

Mr. Naveen Kumar, Adv. for
D-2,4 & D-5 to 7

Mr. Vivek Singh & Mr. Ritik
Dwivedi, Advs. for D-8

CORAM:

**JOINT REGISTRAR (JUDICIAL) MS. PRIYA
MAHENDRA, (DHJS)**

ORDER

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14.02.2024

**IA No.1910/2024 under Order I Rule 10 CPC moved by
the defendant no.3 for deletion; and**

**IA No.1911/2024 moved by the defendant no.3 seeking
condonation of delay in re-filing IA No.1910/2024;**

1. Further arguments heard. It is strongly argued by learned counsel for the plaintiff that the captioned IA though couched as the application filed for deletion under Order I Rule 10 CPC, in substance, is an application under Order VII Rule 11 CPC. During the course of arguments, learned counsel for the plaintiff has drawn my attention and heavily relied on para no.1(II) & (III) of the application, wherein the applicant/defendant no.3 has specifically pleaded absence of cause of action against the defendant no.3 and lack of territorial jurisdiction. It is stated that both these issues fall within the realm of Order VII, Rule 11 CPC and not under Order I, Rule 10 of CPC. Therefore, it is urged that captioned IA cannot be decided by the undersigned as per Delhi High Court Rules and that



the captioned IA may be placed before the Hon'ble Court on date already fixed for consideration.

2. On the other hand, learned counsel for the applicant submits that the captioned IA has been filed under Order I Rule 10 CPC and therefore, falls within the mandate of the undersigned. Heard and record perused. It is a settled law that it is the substance and not the form of any pleadings which will given the issue of jurisdiction of the court. In view of averments made in para no.1(II) & (III), the captioned IA in substance seems to be falling within the purview of Order VII Rule 11 CPC.

In view of submission made and at the request of plaintiff, place the captioned IA before the Hon'ble Court on date already fixed i.e. 21.02.2024, for further directions.

IA No.18531/2023 under Order VIII Rule 1 CPC moved by the plaintiff for directions for striking off the defence of the defendant no.1&3

IA No.24376/2023 under Section 151 CPC moved by the defendant no.3 seeking condonation of delay in filing Written Statement alongwith Affidavit of Admission/Denial of the documents; and
IA No.24377/2023 under Section 151 CPC moved by the defendant no.3 seeking condonation of delay in re-filing IA No.24376/2023

IA No.23725/2023 under Order VIII CPC for condonation of delay in filing Written Statement moved by defendant no. 1; and
IA No.23726/2023 for condonation of delay in re-filing moved by defendant no.1

3. As per record, replies to the captioned IAs i.e. IA no.24376/2023, IA no.24377/2023, IA no.23725/2023 & IA No.23726/2023 filed by the plaintiff are already on record.



As per office note, rejoinders to the same in the captioned IAs alongwith proof of cost of Rs.1500/- filed by the applicant are now on record. **Thus, pleadings in the captioned IAs i.e. IA no.24376/2023, IA no.24377/2023, IA no.23725/2023 & IA No.23726/2023 are complete. Pleadings are already complete in IA No.18531/2023.**

4. Arguments heard. Learned counsel for the defendant no.1&3 has heavily relied on para no.4 of the application bearing IA No.24376/2023 in which he has mentioned one judgment in the matter titled ***“Patil Automation (P) Ltd. Vs. Rakheja Engineers (P) Ltd., (2022) 10 SCC”***, to contend that till the disposal of the application filed by the plaintiff under Section 12A of the Commercial Courts Act, 2015, the limitation period for filing the Written Statement by defendant no.1&3 has not started. At this stage, learned counsel for the defendant no.1&3 is directed to assist the court by providing the said judgement, to which he submits that he does not have said judgment and that some time may be given to him for producing the same. It is important to note that vide order dated 12.12.2023, the Hon'ble Court specifically directed this court to dispose of all the pending applications which are total 15 in numbers within the period of three months. The said period of 3 months will expire on 12.03.2023. So, it is expected from learned counsels to file all the relevant material before arguments of the captioned IA in order to render proper assistance which is unfortunately not being done by learned counsel for the defendant no.1&3. At this stage, learned counsel for the plaintiff has assisted the court by



providing copy of said judgement in the court today.

Arguments of learned counsel for the plaintiff as well as learned counsel for the defendant no.1&3 heard in the captioned IAs for two hours.

At this stage, it is stated by learned counsel for the applicants/defendant no.1&3 that he may be granted some time to file relevant case laws in support of his submissions. At request, the same be filed within one week with copy to the opposite side.

Re-notify the captioned IAs for orders on 29.02.2024.

IA No.14319/2023 under Section 5 of Limitation Act moved by the defendant no.4 seeking condonation of delay in filing Written Statement and reply to IA No.15150/2021; and

IA No.14320/2023 under section 5 of Limitation Act moved by the defendant no.4 seeking condonation of delay in re-filing IA No.14319/2023

IA No.14292/2023 under Section 5 of Limitation Act moved by the defendant no.5 seeking condonation of delay in filing Written Statement and reply to IA No.15150/2021; and

IA No.14293/2023 under section 5 of Limitation Act moved by the defendant no.5 seeking condonation of delay in re-filing IA No.14292/2023

IA No.14315/2023 under Section 5 of Limitation Act moved by the defendant no.6 seeking condonation of delay in filing Written Statement and reply to IA No.15150/2021; and

IA No.14316/2023 under section 5 of Limitation Act moved by the defendant no.6 seeking condonation of delay in re-filing IA No.14315/2023

IA No.14317/2023 under Section 5 of Limitation Act moved by the defendant no.7 seeking condonation of delay in filing Written Statement and reply to IA No.15150/2021; and



IA No.14318/2023 under section 5 of Limitation Act moved by the defendant no.7 seeking condonation of delay in re-filing IA No.14317/2023

Pleadings qua all captioned IAs are already complete.

Part arguments already heard.

As per record, the report of the registry is already on record.

The learned counsel for the plaintiff has already filed Convenience Compliance set alongwith relevant case-laws. The physical copy of pleadings of captioned IAs filed by the plaintiff are also on record.

As per office note, Convenience Compilation Set filed by the defendant no.4 to 7 is lying under objections. Learned counsel for the said defendants is directed to take requisite steps expeditiously to bring the same on record.

At the joint request, re-notify the captioned IAs for arguments on **11.03.2024**.

It is clarified that now last and final opportunity is granted to all the parties for completion of pleadings and address arguments in all pending captioned IAs in view of order dated 12.12.2023.

IA No.12502/2023 under Order VIII CPC moved by the defendant no.8 seeking condonation of delay in filing Written Statement

Issue notice. Learned counsel for the plaintiff accepts notice of the captioned IA. At request, reply, if any, to the captioned IA be filed by the plaintiff within two weeks with copy to the opposite side, who is at liberty to file rejoinder, if any, within two weeks thereafter with copy to the opposite side.

Re-notify captioned IA for completion of pleadings



on **11.03.2024**.

**IA No.24036/2023 under Order VII Rule 11 CPC
moved by the defendant no.1**

At request, reply, if any, to the captioned IA be filed by the plaintiff within two weeks as a last and final opportunity with copy to the opposite side, who is at liberty to file rejoinder, if any, within two weeks thereafter with copy to the opposite side.

Re-notify the captioned IA for completion of pleadings on **11.03.2024**.

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Separate Written Statements alongwith Affidavits of Admission/Denial of the documents filed by defendant no.1&3 are already on record. However, applications seeking condonation of delay in filing of Written Statements filed by defendant no.1 and defendant no.3 and application filed by the plaintiff striking of their defence are pending consideration.

Vide order dated 18.10.2023, the Written Statement alongwith Affidavit of Admission/Denial filed by the defendant no.2 was taken off the record.

As per record, Written Statement alongwith Affidavit of Admission/Denial of the documents filed by the defendant no.4, has been placed by the Registry. However, an application for condonation of delay in filing Written Statement and Affidavit of Admission/Denial of the documents filed on behalf of the defendant no.4 is pending consideration.

As per record, separate Written Statements alongwith Affidavits of Admission/Denial of the documents filed by defendant no.5,6&7, have been placed



by the Registry. However, applications for condonation of delay in filing Written Statement and Affidavit of Admission/Denial of the documents filed on behalf of the defendant no.5 to 7 are pending consideration.

As per record, Written Statement alongwith Affidavit of Admission/Denial of the documents filed by the defendant no.8 has been placed by the Registry. However, an application seeking condonation of delay in filing Written Statement filed by the defendant no.8 is pending consideration.

Re-notify the matter for further proceedings on **11.03.2024.**

PRIYA MAHENDRA (DHJS)
JOINT REGISTRAR (JUDICIAL)
FEBRUARY 14, 2024/ab

Click here to check corrigendum, if any