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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(OS) 593/2012**
RAVINDER KAUR CHAWLA

..... Plaintiff

Through Mr.Aviral Tiwari, Advocate

versus

IQBAL SINGH SABHARWAL & ORS

..... Defendant

Through Mr.Anupam Roy & Mr.Nikhil
Mundeja, Advocates for D-4.
Mr.Saleem Hasan, Advocate for D-
7.
Mr.Manish Kumar & Mr.Piyush
Kaushik, Advocate for D-10.
Mr.Ashish Dixit, Advocate for D-12.

CORAM:

SH. ANIL KUMAR (DHJS), JOINT REGISTRAR (JUDICIAL)

ORDER

% **10.09.2018**

IA No. 10515/18 (filed by D-2 under section 5 of Limitation Act r/w 151 CPC)

It is stated in the IA that witness is not resident of Delhi & is also a senior citizen. It is further stated that even the wife of witness was not well as such delay was caused in filing the affidavit. It is further stated that copy of affidavit has already been supplied to opposite parties and no prejudice is likely to be caused if the affidavit is taken on record. It has also been stated that there is delay of 32 days in filing the affidavit.

Present IA is opposed by plaintiff stating that D-2 has already availed two opportunities for filing the affidavit. It is stated that vide

order dt.11.5.18 time was granted upto 31.5.18 to file affidavit and matter was listed for fixing the date for evidence. It is further stated that on 21.5.18 no request for adjournment was made on behalf of D-2 to extend time for filing affidavit. It is further stated that affidavit was filed on 23.7.18 i.e. after 32 days of delay of second opportunity having been granted to D-2. It is stated that present IA is devoid of merits and is liable to be dismissed.

This matter is at the stage of recording of evidence on behalf of D-2. D-2 has filed his and one more witness namely Ms.Poonam Kaur Sethi's affidavits in evidence on 30.10.2015.

Vide order dt.11.5.2018 D-2 was directed to file affidavit by way of examination in chief of Mr.Amarjeet Singh on or before 31.5.18. On 30.5.2018 D-2 moved an application supported with medical documents for grant of 3weeks more time to file the affidavit of Mr.Amarjeet Singh on medical ground of wife of this witness who was under medical treatment in Mohali. Vide order dt.1.6.2018, D-2 was granted 3 weeks more time to file affidavit in evidence of Mr.Amarjeet Singh Sethi but affidavit was filed only on 24.7.18. Advance copies of the affidavit of witness Mr.Amarjeet Singh Sethi was served upon the plaintiff and on contesting defendants on 23.7.18. His wife is resident of Shimla and alleged to be not well which caused delay in filing of his affidavit in evidence.

Ground taken in the application is plausible, however, for compensating the plaintiff due to delay in the proceedings, defendant no.2 is liable to be imposed cost of Rs.4000/-.

Delay in filing the affidavit in evidence of Mr.Amarjeet Singh

Sethi is condoned with cost of Rs.4000/- to be deposited in Kerala CM Relief Fund. Affidavit in evidence of Mr.Amarjeet singh Sethi is taken on record. According the present IA is disposed of.

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List the matter for examination of DW Mr.Amarjeet Singh Sethi on 22.10.18.

**ANIL KUMAR (DHJS)
JOINT REGISTRAR (JUDICIAL)**

SEPTEMBER 10, 2018/gk