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

+ **CS(OS) 709/2023**

RENU CAPRIHAN & ANR.

.....Plaintiff

Through: Mr. Mandeep Singh Vinaik, Ms.
Ragini Vinaik, Ms. Thanglunkim,
Advs.

versus

SANGEETA GROVER

.....Defendant

Through: Mr. Amar Nandrajog & Mr.
Tanveer Singh, Advs.

CORAM:

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

ORDER

08.01.2024

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I.A. No. 360/2024 (by defendant u/O VIII Rule 1 r/w Sec. 151 CPC seeking condonation of delay of 28 days in filing written statement).

1. The matter has been taken up today on filing of the captioned IA.
2. It is submitted that the matter is coming up for hearing before the undersigned on 25.01.2024.
3. Ld. Counsel for plaintiff accepts notice of the captioned IA and submits that he does not wish to file any reply to the same and would like to argue the same straightaway.
4. Arguments on the captioned IA heard from both sides.
5. Ld. Counsel for applicant/defendant has submitted that documents related to the present matter are voluminous



and dates back to the year 1985 and therefore, arranging all the necessary documents on her own on behalf of the defendant caused an inadvertent delay in providing all the necessary documents and the requisite instructions to the Counsel for drafting of the written statement. He has further submitted that office of the counsel for defendant was closed during the festivities i.e., Christmas and New Year period and therefore, there is delay of 28 days in filing written statement. He has further submitted that the delay in filing written statement is neither wilful nor intentional, but due to the above said reasons.

6. On the other hand, Ld. Counsel for plaintiff has submitted that the defendant has not stated any reason if he was prevented by any sufficient cause for exceptional and unavoidable reasons in filing the written statement within 30 days and hence, the present application of defendant is not maintainable and is without any merit and the same may kindly be dismissed.
7. Heard. Record perused. This is a suit for partition of property i.e. basement, terrace above second floor, and the land underneath the superstructure at M-113, Greater Kailash Part II, New Delhi. It is defence of the defendant that her parents had purchased share in the suit property vide sale-deed dated 31.03.1987 bearing document no. 2680. The defendant has taken plea in the captioned IA that the documents related to the present matter are voluminous and the defendant took time in arranging the said documents and give proper instructions to her counsel to prepare written statement. It is settled law that technicalities of law should not come in the way of



justice and endeavour of the court should be to decide the *lis* on merits.

8. Keeping in view the facts & circumstances of the case and submissions made on behalf of both the parties, delay in filing written statement on behalf of the defendant is condoned and the same be taken on record if complete in other respects, subject to cost of Rs.5,000/- to be paid to the plaintiff. Cost not paid, same be paid on or before next date of hearing.
9. The plaintiff may file replication alongwith affidavit of admission/denial of documents as per law.
10. The captioned IA stands disposed off accordingly.

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

JANUARY 8, 2024/v

Click here to check corrigendum, if any