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

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

RENU CAPRIHAN & ANR.

.....Plaintiffs

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

versus

SANGEETA GROVER

.....Defendant

Through: Mr. Tanveer Singh, Ms. Bhawana,
Advs.

CORAM:

DR. JAGMINDER SINGH (DHJS) JOINT REGISTRAR (JUDICIAL)

ORDER

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30.07.2024

**I.A. No. 9610/2024(This is an application under Order VIII Rule 9
seeking permission for filing of additional written statement.)**

Further arguments heard.

It is submitted on behalf of the applicant / defendant that he is seeking permission to file additional written statement in view of the additional facts and documents brought on record by the plaintiffs in their replications and list of documents dated 24.01.2024. The defendant filed her written statement on 02.01.2024 in reply to the facts and averments pleaded by the plaintiffs in the plaint. The additional facts and documents were filed by the plaintiff with replication despite that they were in knowledge and possession of the plaintiff at the time of filing of the plaint. Therefore, defendant may be allowed to file his response by way of additional written statement only

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qua the said additional facts and documents as mentioned by the plaintiff in his replication in Paragraph No. 30, 35 & 36 under the heading “Response to preliminary submissions” and in Paragraph No. 7 under the heading “Response to reply on merit”. Learned counsel submitted that the relevant rule i.e. Order VIII Rule 9 of CPC and Rule 3(20) of Chapter II of Delhi High Court Rules permit for that. Therefore, he may be allowed to file the additional written statement.

On the other hand, learned counsel for plaintiff opposed the application. Reply has also been filed opposing the same. It is submitted by learned counsel that there is no provision in the Delhi High Court Rules to condone the delay in filing the additional written statement. There is a maximum period of 120 days in filing the written statement and thereafter, there is no scope for any kind of additional written statement after the expiry of that period. He further submitted that the Delhi High Court (Original) Side Rules, 2018 prevails over the general provision of Code of Civil Procedure. He submitted that the present application has been filed without any merit and is liable to be dismissed.

I have considered the submissions of both the parties and perused the record. I have gone through the relevant provisions as well as Case Laws. It is true that there is settled law that the written statement cannot be filed beyond the permissible limit of 30 + 90 days delay. It is also settled law that the High Court (Original) Side Rules, 2018 shall prevail over the provisions of Code of Civil Procedure where there is any inconsistency / clash between them.



Regarding filing of additional written statement, it has been mentioned in Chapter II Rule 3(20) that it is under the powers of the Registrar to decide the application for leave to file a further or additional written statement. As per Order VIII Rule 9 CPC, Court may ask for filing of additional written statement within a period not more than 30 days i.e. the Rule providing specifically for subsequent pleadings. As far as Chapter VII Rule 4 of the Delhi High Court (Original) Side Rules, 2018 is concerned, same is regarding the filing of written statement. It is nowhere mentioned in the said Rule about additional written statement or subsequent pleadings. Therefore, there is no any inconsistency or clash between the Order VIII Rule 9 CPC and Chapter VII Rule 4 of the Delhi High Court (Original) Side Rules, 2018 because both provisions are regarding two different proceedings.

It is clear that there is no bar under the Delhi High Court (Original) Side Rules, 2018 to provide opportunity to defendant to file additional written statement. However, the defendant can be allowed to avail this opportunity only to the extent of new / fresh facts or documents mentioned / filed by the plaintiff with his replication which were not there with the plaint.

In the present case, the plaintiff in his replication and list of documents mentioned the new facts and filed new documents which were not filed with the plaint. The defendant could not get opportunity to file his response qua the same in his written statement. Therefore, it also comes under the purview of natural justice as well as Right to equality before



law that defendant should be given appropriate opportunity to file his response to all the facts / documents filed by the plaintiff. In this case, defendant could not file his response through his written statement regarding the facts / documents as mentioned in Paragraph No. 30, 35 & 36 under the heading of “Response to preliminary submissions” and in Paragraph No. 7 under the heading of “Response to reply on merits”, of the replication.

Therefore, in view of the facts and circumstances, the defendant is hereby allowed to file his additional written statement within four weeks, with advance copy to the opposite party, limited to the extent only qua the new / additional facts / documents mentioned by the plaintiff in Paragraph No. 30, 35 & 36 under the heading of “Response to preliminary submissions” and in Paragraph No. 7 under the heading of “Response to reply on merits”, of the replication.

The captioned IA stands allowed and **disposed of** accordingly.

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As requested, put up before the Hon’ble Court on the date already fixed i.e. 31.07.2024 for further directions.

DR. JAGMINDER SINGH (DHJS)
JOINT REGISTRAR (JUDICIAL)

JULY 30, 2024/sms

Click here to check corrigendum, if any

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