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

+ **CS(OS) 775/2022**

SUMIT CHHABRA

.....Plaintiff

Through: Plaintiff in person.

Versus

SMT PREETI CHHABRA & ORS.

.....Defendants

Through: Mr. Hashank Kumar, Ms. Rashi Arora and Mr. G S Ahuja, Advocates for D-1.

Mr. Shashank Kumar, Ms. Rashi Arora and Mr. G.S. Ahuja, Advocates for D-1 along with D-1 in person.

Mr. Gurpreet Singh and Mr. Dhruv Kumar, Advocates for D-6, 7 & 8.

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

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30.08.2024

O.A. 85/2023

1. This is a chamber appeal filed on behalf of defendant nos. 6 to 8 for setting aside the order dated 22.08.2023 passed by learned Joint Registrar (J) recording that their right to file written statement and affidavit of admission/denial of documents stands closed.
2. Learned counsel for the appellant states that after summons were served on the defendant nos. 6 to 8 and he was engaged as an Advocate and he duly entered appearance on 16.02.2023. He states, however, some of the documents in the paper book served on defendant nos. 6 to 8 were not clear/legible and, therefore, he had requested the counsel for the plaintiff via



E-mail dated 17.02.2023 for a copy of the document annexed at Sr. No. 1 and Sr. No. 4 of the plaintiff's documents. He states that legible copies of the said documents were thereafter provided by the plaintiff's counsel via E-mail on 06.05.2023.

3. He states that, therefore, the period of limitation ought to be reckoned from 06.05.2023. He states that the written statement has since been filed along with affidavit of admission/denial of documents on 23.08.2023 i.e., on 110th day from 06.05.2023, therefore, the order dated 22.08.2023 passed by learned Joint Registrar (J) ought to be set aside. He states that there were out of Court settlement talks between the parties and this led to the delay in filing the written statement beyond the statutory period of thirty days.

4. This Court has heard the learned counsel for defendant nos. 6 to 8 and perused the record.

5. The defendant nos. 6 to 8 were served by the process server on 20.01.2023. The defendant nos. 6 and 8 were also served via speed post on 21.01.2023. Defendant nos. 6 to 8 were also served by WhatsApp on 23.01.2023.

6. The statutory period of limitation for filing the written statement within thirty (30) days therefore, commenced on 20.01.2023 and expired on 19.02.2023.

7. The defendant nos. 6 to 8 however, filed the written statement on 23.08.2023 which is even beyond the grace period of additional 90 days permissible under Chapter VII Rule 4 Delhi High Court Rules (Original Side), 2018.

8. The defendant nos. 6 to 8 have relied upon the e-mail dated 17.02.2023 issued to the counsel for the plaintiff for seeking legible copy of



the document filed at Sr. Nos. 1 and 4 of the plaintiff's documents. The said plea of the defendants is without any merit as a perusal of the documents shows that the typed copy of the documents filed at Sr. Nos. 1 and 4 were also filed by the plaintiff. The defendant nos. 6 to 8 admit receipt of the typed copy of the said documents. In addition, defendant nos. 6 to 8 had ready access to the Court files and could have easily sought an inspection of the Court record and/or sought a digital copy of the file from the registry in case of any doubt. This Court, therefore, finds no merit in the submission of defendant nos. 6 to 8 that there was no proper service of paper book on them along with the summons. Therefore, the plea of the defendant nos. 6 to 8 that the period for limitation commenced from 06.05.2023 is without any merit.

9. The defendant nos. 6 to 8 have been wholly remiss in filing their written statement and the facts of this appeal are a textbook illustration of abuse of rules by the defendants, who willfully failed to file written statement(s) despite being duly served through multiple processes; and thus, succeed in delaying proceedings.

10. In view of the aforesaid fact, the challenge to the order dated 22.08.2023 passed by the learned Joint Registrar (J) is without any merit and is hereby dismissed with costs of Rs. 10,000/- payable to Delhi High Court Bar Clerks Association (Clerks Association) within two weeks. The bank details of the Clerks Association is Bank Name: UCO Bank, Delhi High Court Saving A/c:15530100006282.

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11. Learned counsel for the plaintiff states that costs of Rs. 7,500/- imposed vide order dated 05.07.2024 has been paid to defendant no. 1 today. The defendant no. 1 confirms the receipt of the same.



12. List before the learned Joint Registrar (J) for filing of Joint Documents Schedule and for marking of exhibits on **29th October, 2024**.
13. List before the Court for framing of issues on **07th January, 2025**.

MANMEET PRITAM SINGH ARORA, J

AUGUST 30, 2024/MR/msh/AKT

Click here to check corrigendum, if any