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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CS(COMM) 653/2024

SH KANWAL SINGH SOLANKI

.....Plaintiff

Through: Appearance not given.

versus

SH RICHIE SHEKHER & ORS.

.....Defendants

Through: None for D-1 to 3.

Mr. Gourav Mundia, proxy counsel
for Ms. Avni Singh, Panel Counsel
for GNCTD for D-4.

CORAM:

**JOINT REGISTRAR (JUDICIAL) SH.GAGANDEEP
JINDAL (DHJS)**

ORDER

17.07.2025

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Proceedings are being conducted through hybrid mode.

I.A. No. 46897/2024 (by plaintiff u/O XXVI Rule 9 CPC)

1. Pleadings qua the captioned IA are complete.
2. It is submitted that the captioned IA is coming up for hearing before the Hon'ble Court on **21.07.2025**.

I.A. No. 6839/2025 (by D-1 & 2 for condonation of delay of 72 days in filing written statement)

3. None had appeared on behalf of defendant nos. 1 & 2. No rejoinder has been filed on behalf of defendant nos. 1 & 2. On last date of hearing also none had appeared on behalf of defendant nos. 1 to 3. It seems that defendant nos. 1 & 2 are not interested to pursue the captioned IA.
4. Therefore, Court deems it fit to proceed further on merits. Arguments on behalf of plaintiff heard.
5. In the captioned IA it has been submitted on behalf of the



defendants no. 1 & 2 application for amendment of plaint was allowed on 22.10.2024. The written statement has been filed on 05.02.2025 with delay of 72 days. The delay occurred due to the fact that the counsel for defendant has suffering hairline fracture. It is further submitted that the mother of the defendant is a heart patient therefore he was unable to handle the legal matters effectively. It is also submitted that the defendant no.2 is a senior citizen and is undergoing dialysis on weekly basis. Defendant no.1 being only son of defendant no.2 was pre-occupied with medical care and hospitalization of defendant no.2.

6. Learned counsel for the plaintiff had argued that defendant nos. 1 & 2 were served on 24.08.2024 and period of 30 days expired on 24.09.2024. They have filed written statement only on 05.02.2025 after expiry of 120 days therefore the captioned IA is not maintainable. Even otherwise no satisfactory reasons have been explained in the captioned IA.
7. I have gone through the record.
8. The medical documents of ld. counsel for the defendants are dated 20.12.2024. The medial documents of mother of ld. counsel for defendants shows that she had health issues on 31.12.2024 which are beyond the initial period of 30 days available to the defendants.
9. None has appearing on behalf of defendant nos. 1, 2 & 3 on last date of hearing as well as today which shows their conduct that they are not interested to contest the present suit. Even otherwise no satisfactory reasons have been disclosed for condonation of delay in filing the written



statement on behalf of defendant nos. 1 & 2.

10. The written statement of defendant nos. 1 & 2 cannot be taken on record as it has been filed after expiry of limitation period.

11. The captioned IA is dismissed and disposed off accordingly.

I.A. No. 6840/2025 (by D-2 u/O I Rule 10(2) r/w Section 151 of CPC for deleting D-2 from array of parties)

12. None had appeared on behalf of defendant nos. 1 & 2. No rejoinder has been filed on behalf of defendant nos. 1 & 2. On last date of hearing also none had appeared on behalf of defendant nos. 1 to 3. It seems that defendant nos. 1 & 2 are not interested to pursue the captioned IA.

13. Therefore, Court deems it fit to proceed further on merits. Arguments on behalf of plaintiff heard.

14. In application it has been submitted on behalf of defendant no. 2 that he has not privity of contract with plaintiff and has been unnecessarily dragged into the litigation. Defendant no. 2 had never entered into any agreement with plaintiff nor has undertaken any obligation. Even defendant no. 1 in his written statement had contended that defendant no. 2 had no role in the dealings between defendant no. 1 & plaintiff. Therefore, it is prayed that the name of defendant no. 2 be deleted from the array of the defendants.

15. Ld. Counsel for the plaintiff oppose the application on the ground that the grounds raised by defendant no. 2 in the application are not covered under the parameters of order I Rule 10(2) CPC. Plaintiff was approached by defendant nos. 1 & 2 to let out the subject property for commercial



purpose and it was let out to both defendants no.1 & 2. Though the rent agreement dated 28.11.2022 was signed by defendant no.1 only. He further argued that in every written intimation/complaint i.e. dated 26.02.2024, 11.03.2024, 02.04.2024, 17.04.2024 & 06.05.2024, the defendant no. 2 always referred himself as joint tenant alongwith defendant no.1 of the plaintiff. He further argued that in the status report filed on behalf of concerned SDM it is recorded that the tenant premises were temporary de-sealed at request of defendant no. 2 to facilitate removal of goods. Therefore, the present application is liable to be dismissed.

16. I have gone through the records.

17. SDM Rohini has filed the status report according to which the plaintiff let out the property bearing Khasra no. 766 & 767, Karan Vihar, Phase –V, Kirari Suleman Nagar, Delhi to defendant nos. 1 & 2. Defendant nos. 1 & 2 continue to operate their factory from the said premises without necessary permissions and the said property was sealed on 12.09.2024. Defendant no. 2 made request to de-sealed the property for removal of goods. Therefore the property was de-sealed allowing the defendant no. 2 to remove goods. Thereafter it was again re-sealed.

18. In view of the status report, it can't be said that there was no privity of contract between the plaintiff and defendant no.2. The defendant no.2 had kept his goods in the tenanted premises and made request to the concerned SDM to de-seal it for removal of goods. In view of these facts and circumstances, I find no merits in the present application.



19. Therefore the captioned IA is dismissed.

I.A. No.43094/2024 (by D-3 u/O I Rule 10(2) CPC for deletion of name of D-3 from array of parties)

20. Ld. Counsel for plaintiff has submitted that he has no objection if the name of defendant no. 3 be deleted from the array of defendants as he is only proforma party.

21. There is no appearance on behalf of defendant no.3.

22. Defendant no. 3 is SHO PS Aman Vihar. No allegations have been made against defendant no. 3 by the plaintiff. In view of the submissions made in the application and no objection of ld. counsel for the plaintiff, the name of defendant no. 3 is deleted from the array of defendants.

23. The captioned IA is disposed off accordingly.

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I.A. No. 35588/2024 (by plaintiff for stay) &

I.A. No. 35589/2024 (by plaintiff seeking exemption from instituting pre-litigation mediation)

24. Right of defendants no.1 to 3 to file reply to the captioned IAs has already been closed.

25. Written statement filed on behalf of defendant nos. 1 & 2 had been struck off.

26. Pleadings are complete.

27. At request, re-notify the matter before the Hon'ble Court on the date already fixed i.e. **21st July, 2025.**

**GAGANDEEP JINDAL (DHJS)
JOINT REGISTRAR (JUDICIAL)**

JULY 17, 2025/PU

Click here to check corrigendum, if any