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IN THE HIGH COURT OF DELHI AT NEW DELHI

CS(OS) 823/2022

AROTI SARKAR & ANR.

..... Plaintiffs

Through: Mr. Lokesh Chopra, Adv. (joined
through VC)

versus

ASHOK SARKAR & ORS.

..... Defendants

Through: None for D-1&2
Mr. Shrey Gupta, Adv. for D-
3&4 (joined through VC)
Defendant no.5&6 in person
Mr. Sugam Mishra, Adv. for D-
8&9 (joined through VC)

CORAM:

**JOINT REGISTRAR (JUDICIAL) MS. PRIYA
MAHENDRA, (DHJS)**

ORDER

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07.03.2024

**IA No.23173/2023 under Section 5 of Limitation Act
moved by the defendant no.3&4 seeking condonation of
delay in filing Written Statement**

It is already stated by learned counsel for the plaintiff that he does not wish to file any reply to the captioned IA.

No reply to the captioned IA has been filed by defendant no.1&2 till date despite seeking opportunity on the last date of hearing. None is present on behalf of the defendant no.1&2 today to explain in this regard. So, the right of defendant no.1&2 to file reply is ordered to be closed.

No reply to the captioned IA has been filed by defendant no.5&6 till date despite seeking opportunity on the last date of hearing. No plausible explanation is furnished by defendant no.5&6, who are present in person today. So, the right of defendant no.5&6 also to file reply is ordered to be closed.



Part arguments heard. On perusal of captioned IA, it is found that the applicants have nowhere mentioned the date of service of defendant no.3&4 and how the delay of 84 days in filing Written Statement has been calculated by defendant no.3&4. Learned counsel for the applicants is directed to do the needful in this regard as per law.

At request of the applicants, re-notify the captioned IA for consideration on the next date of hearing.

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Affidavit of Admission/Denial of the documents filed by defendant no.5&6 is still not on record. In the interest of justice, no adverse order is being passed today and the last and final opportunity is granted to the defendant no.5&6 to take requisite steps expeditiously to bring Affidavit of Admission/Denial of the documents on record.

As per office note, Replication alongwith Affidavit of Admission/Denial of the documents filed by the plaintiff to the Written Statement and documents of defendant no.5&6 is on record.

On perusal of Affidavit of Admission/Denial of the documents filed by the plaintiff qua documents of defendant no.5&6, it is found that the same is not in a prescribed format as per Chapter VII of Delhi High Court (Original Side) Rules. So, the plaintiff is directed to file proper/revise Affidavit of Admission/Denial of the documents within two weeks with copy to the opposite side.

The Replication alongwith Affidavit of Admission/Denial of the documents filed by the plaintiff



qua Written Statement and documents of defendant no.1&2 is lying under objections. So, the plaintiff is directed to take requisite steps expeditiously to bring the same on record. Needless to say, Replication alongwith Affidavit of Admission/Denial of the documents, if any, filed by the plaintiff qua defendant no.1&2 shall be made part of the record as per law.

As per record, Written Statement alongwith Affidavit of Admission/Denial of the documents filed by the defendant no.3&4 is already on record. An application seeking condonation of delay in filing Written Statement filed by defendant no.3&4 is pending consideration.

The right of the defendant no.7 to file Written Statement has already been ordered to be forfeited.

Pleadings qua defendant no.8&9 are already complete.

The plaintiff has not filed Joint Schedule of the documents. Learned counsel for the plaintiff seeks some time for the same. In the interest of justice, no adverse order is being passed today and the last and final opportunity is granted to the plaintiff to file soft copy as well as physical copy of Joint Schedule of the documents within three weeks with copy to the opposite side.

Both the sides are directed to file their physical copies of the documents of which e-copy already filed on record, if not filed earlier, before the next date of hearing.

At this stage, it is pointed out by learned counsel for the defendant no.8&9 that defendant no.8 has expired on 01.02.2024, to which learned counsel for the plaintiff submits that he has no knowledge about the same. So,



learned counsel for the defendant no.8&9 is directed to supply copy of Death Certificate of the deceased alongwith details of LR's of deceased to learned counsel for the plaintiff within one week. Thereafter, the plaintiff is directed to take requisite steps to bring LR's of deceased on record as per law.

Re-notify the matter for completion of pleadings/markings of exhibits to the documents on the next date of hearing.

I.A. No. 21909/2022 (for ex-parte interim orders) moved by the plaintiff

Pleadings qua defendant no.1,2, 3,4, 8&9 are already complete.

The rejoinder to the reply of defendant no.5&6, which was stated to have been filed by the plaintiff, is still not on record. In the interest of justice, no adverse order is being passed today and the last and final opportunity is granted to the plaintiff to take requisite steps within two weeks to bring the same on record.

The right of the defendant no.7 to file reply to captioned IA has already been ordered to be closed.

Re-notify captioned IA for completion of pleadings qua defendant no.5&6 on the next date of hearing.

I.A. No.21910/2022 (for directions) moved by the plaintiff

Pleadings qua defendant no.1 to 6 are already complete. The right of the defendant no.7 to file reply has already been ordered to be closed.

It is already stated by learned counsel for the defendant no.8&9 that he does not wish to file any reply to captioned IA.



Re-notify captioned IA on 10.07.2024.

**PRIYA MAHENDRA (DHJS)
JOINT REGISTRAR (JUDICIAL)**

MARCH 7, 2024/ab

Click here to check corrigendum, if any