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IN THE HIGH COURT OF DELHI AT NEW DELHI

CS(OS) 1312/2007

UJJAL S. MAKKER

.....Plaintiff

Through: Mr. Rahul Sharma, Ms. Jyoti
Dutt Sharma, Mr. Ayush Bhatt &
Mr. Harsh Rao, Advs.

Versus

KAVAL BAJAJ & ORS

.....Defendants

Through: Dr. Sarbjit Sharma & Ms.
Himani Rawat, Advs. for D-1
Mr. Sidhant Dhingra, Adv. for
D-3 (Mob.9811101782)
Ms. Chandrika Gupta, Adv. for
Mr. Rajat Aneja, previous
counsel for D-3

CORAM:

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

ORDER

% **14.08.2024**

**I.A.No.14910/2021 (under Order I Rule 10 CPC filed
by defendant no.3 seeking deletion)**

1. Pleadings are already complete.
2. At this stage, it is stated by learned previous counsel for the defendant no.3 that since defendant no.3 has engaged a new counsel, she may be discharged. Learned new counsel for the defendant no.3 is present in the court today. Accordingly, learned previous counsel for the defendant no.3 is discharged from representing the defendant no.3 in future.
3. The defendant no.3 has not filed requisite Affidavit till date despite order passed on 03.07.2024. Learned new counsel for the defendant no.3 seeks some more time to



file Affidavit in compliance of order dated 26.09.2023 on the ground that he has been engaged only yesterday and hence, he has not complied the order. The same is vehemently opposed by learned counsel for the plaintiff.

4. Heard and record perused. On the last date of hearing i.e. 03.07.2024 in the interest of justice, last and final opportunity was again granted to the defendant no.3 to file requisite Affidavit subject to cost of Rs.3000/- to be paid to the plaintiff. However, neither Affidavit has been filed nor cost has been paid to the plaintiff by the defendnat no.3 despite the order dated 03.07.2024. Now, new counsel for the defendant no.3 is present and submits that he has been engaged only yesterday and for this reason, he has not complied the said order. However, this is not plausible reasonable explanation for repeated non compliance of the orders of the court by defendant no.3. No ground is made out to give further opportunity to the defendant no.3 in this regard. However, solely, in the interest of justice and subject to imposition of additional cost of Rs.10,000/-, out of which Rs.7000/- to be paid to the plaintiff and Rs.3000/- to be deposited with Delhi High Court Legal Services Committee by the defendant no.3, now, last and final opportunity is granted to the defendant no.3 to file Affidavit within one week with copy to the side. The defendant no.3 is also directed to deposit/pay cost within ten days and also file cost receipt with the registry. The defendant is also directed to pay previous cost to the plaintiff within the same timeline. It is clarified that this is last and final opportunity to the defendant no.3 to comply the order within ten days, failing which the



captioned IA shall be dismissed for non-prosecution.

5. As per office note, one Affidavit filed by defendant no.1 is on record. Learned main counsel for the defendant no.1 is not present today to clarify in compliance of which order, defendant no.1 has filed the said Affidavit. At this stage, it is stated by learned counsel for the plaintiff that this is only a ploy on behalf of defendnat no.1 to derail the present matter.

6. It is clarified that filing of this Affidavit by defendnat no.1 in no manner absolves defendant no.3 from complying the order dated 26.09.2024 in its letter & spirit.

7. Re-notify the captioned IA for compliance/consideration on the next date of hearing.

I.A.No.13310/2022 (for passing of Preliminary Decree and for directions filed by defendant no.1)

8. Pleadings are already complete.

9. Re-notify the captioned IA on the next date of hearing.

I.A.No.1137/2023 (under Order XI Rule 12 & 14 CPC filed by the plaintiff)

10. Pleadings are already complete.

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

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12. It is stated by learned counsel for the plaintiff that he has received complete details of LR's of deceased defendant no.2 only on 29.07.2024 and that he has already filed an application for impleadment of LR's of deceased defendant no.2 vide diary no.3006623/2024. However, no such application is on record. Learned counsel for the plaintiff is directed to take requisite steps as per law to bring said application on record. Copy of said application



already supplied to the opposite side.

13. Re-notify the matter for further proceedings on
05.11.2024.

PRIYA MAHENDRA (DHJS)
JOINT REGISTRAR (JUDICIAL)
AUGUST 14, 2024/ab
Click here to check corrigendum, if any