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

CS(COMM) 386/2016

MR RAKESH JAIN Plaintiff

Through: Mr. Birender Bhatt, Adv.
versus

H S C C (INDIA) LTD & ORS Defendants

Through: Mr. Saurabh Mishra with
Mr. Abhishek Singh, Ms. Samridhi Pal &
Ms. Aashna Bhatia, Advs. for D-1.
Mr. Jaswinder Singh, Adv. for D-2 & 3.

CS(COMM) 387/2016

M/S TANYA HEALTHCARE & ORS Plaintiffs

Through: Mr. Birender Bhatt, Adv.
versus

H S C C (INDIA) LTD & ORS Defendants

Through: Mr. Saurabh Mishra with
Mr. Abhishek Singh, Ms. Samridhi Pal &
Ms. Aashna Bhatia, Advs. for D-1.
Mr. Jaswinder Singh, Adv. for D-2 & 3.

+ CS(COMM) 395/2016

M/S JENSON FINVEST PVT LTD Plaintiff

Through: Mr. Birender Bhatt, Adv.
versus

H S C C (INDIA) LTD & ORS Defendants

Through: Mr. Saurabh Mishra with
Mr. Abhishek Singh, Ms. Samridhi Pal &
Ms. Aashna Bhatia, Advs. for D-1.
Mr. Jaswinder Singh, Adv. for D-2 & 3.



CORAM:
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% 20.08.2019

1. The counsel for the defendants no. 2 and 3 states that written statement in terms of the order dated 3rd May, 2019 in CS(COMM) 386/2016 has been filed yesterday along with an application for condonation of delay.
2. The same are not on record.
3. The plaintiff has filed IA Nos.7189/2019, 7186/2019 & 7185/2019, all under Section 153 of the CPC, in the respective suit, to amend the memo of parties only, along with the amended memo of parties. The existing defendants no. 2 and 3 namely “Additional Director, CGHS Medical Store Depot” and “Deputy Director General (ST), Directorate General of Health Services” are sought to be substituted with “CGHS Medical Store Depot” and the “Directorate General of Health Services”.
4. The counsel for the defendants no. 2 and 3 rightly states that the suit is required to be filed against Union of India and even “CGHS Medical Store Depot” and “Directorate General of Health Services” are not legal entities to be sued.
5. Mr. Birender Bhatt, Advocate who appears for the plaintiffs is not even carrying the files, and on being told that even the amendment sought vide IA Nos.7189/2019, 7186/2019 & 7185/2019 will not cure the defect, merely states, “it is a simple application”.

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6. That demonstrates the state of affairs qua these suits.
7. The counsel for the defendants no. 2 and 3 has also contended that the applications should have been under Order I Rule 10 of the CPC and that even if the applications were to be allowed, the plea of limitation be kept open.
8. The counsel for the defendant no.1 states she has no objection to IA Nos.7189/2019, 7186/2019 & 7185/2019 being allowed.
9. For the reason that the reliefs claimed in IA Nos.7189/2019, 7186/2019 & 7185/2019 is found to be inconsequential and for the reason of the written statement of the defendants no. 2 and 3 being still not on record, it is deemed appropriate to allow the IA Nos.7189/2019, 7186/2019 & 7185/2019.
10. IAs No. 7189/2019, 7186/2019 & 7185/2019 are allowed and disposed of. The amended memos of parties filed therewith are taken on record.
11. The counsel for the defendants no. 2 and 3 states that the written statement already filed along with an application for condonation of delay, be read in response to the plaint with the amended memos of parties also.
12. The written statement, informed to have been filed, be taken on record. The application, if any, filed therewith for condonation of delay in filing thereof is infructuous and need not be listed. Defendants no. 2 and 3 will be entitled to raise the issue of limitation at the time of framing of fresh issues.



13. The replication to the written statements of the defendants no. 2 and 3 be filed within 30 days.
14. List for framing of issues/ additional issues, if any, on 19th February, 2020.

RAJIV SAHAI ENDLAW, J

AUGUST 20, 2019
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