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

+ **CS(OS) 1721/2008**

**PRASAR BHARATI**

..... Plaintiff

Through: Mr. Rajeev Sharma & Mr. Saket  
Chandra, Advocates.

versus

**TV TODAY INDIA LTD & ORS.**

..... Defendant

Through: Ms. Meenakshi Midha, Mr. Kapil  
Midha & Mr. A. Choudhary,  
Advocates for D-1, 5 & 12  
Mr. Vaarish K. Sawlani, Adv. for D-3  
Ms. Aishwarya Chaturvedi, Adv. for  
D-4  
Mr. Aadhar Nautiyal, Adv. for D-6  
Mr. Arijit Mazumdar & Mr. Devesh  
Ajmani, Advocates for D-7  
Mr. K.V. Jagdishvaran & Mr. G.  
Indira, Advocates for D-8  
Ms. Anushka Arora & Mr. Rohan  
Yadav, Advocates for D-10  
Ms. Manika Sharma & Mr. Vivek  
Aggarwal, Advocates for D-11  
Mr. Saurabh Jain & Ms. Sarika,  
Advocates for D-13

**CORAM:**

**SH. VIJAY SHANKAR (DHJS), JOINT REGISTRAR  
(JUDICIAL)**

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**ORDER**  
**26.02.2020**

**I.A.No. 13855/2018 under Section 151 CPC filed on behalf of the defendant no.13 seeking permission to adopt the written statement filed by the defendant no.1, 5 & 12 and**

**I.A.No. 6378/2019 u/o 8 Rule 1 CPC filed on behalf of the defendant no.13 explaining the delay so cause in seeking permission to adopt the written statement filed by the defendant no.1, 5 & 12**

By way of common order, I shall dispose of aforesaid applications filed by the defendant no.13. By way of aforesaid applications, the defendant no.13 has prayed that the defendant no.13 be permitted to adopt the written statement filed by the defendant no.1, 5 & 12.

Brief facts necessary for just adjudication of the present applications, as stated in the application bearing IA No.13855/2018, are that on 26/05/2018, the plaintiff has filed application seeking permission to examine Mr. Avinash Acharya, evidence by way of affidavit and list of witnesses and the same were sent at the old office address of the defendant no.13 located at 17/107, Ground Floor, Vikram Vihar, Lajpat Nagar-IV, New Delhi-110024 which has been used as a guest house by the defendant no.13 since 2008. Since 2008, the said guest house is closed during day time. On 30/05/2018, guard of the guest house received the aforesaid documents sent by the plaintiff and the guard informed the office of the defendant no.13 at its new office located at 21, 2<sup>nd</sup> – 3<sup>rd</sup> floor, Natya Ballet Centre, Bhai Veer Singh Marg, Gole Market, New Delhi -110001 about the same.

For the first time, it came to the knowledge of the defendant no.13 that the present suit has been filed by the plaintiff. The defendant no.13 found that in the orders dated 19/01/2009 and 18/05/2009, it has been recorded by the Court that there is no appearance on behalf of the defendant no.13 despite service. In January, 2008, the defendant no.13 had shifted its office from 17/107, Ground Floor, Vikram Vihar, Lajpat Nagar-IV, New Delhi-110024 to 21, 2<sup>nd</sup> – 3<sup>rd</sup> floor, Natya Ballet Centre, Bhai Veer Singh Marg, Gole Market, New Delhi-110001. Therefore, summons issued in the present suit was not received by any officer or staff of the defendant no.13 at 17/107, Ground Floor, Vikram Vihar, Lajpat Nagar-IV, New Delhi-110024, which was and is being used by the applicant as its guest house and remains closed during day time. The defendant no.13 was not aware about the institution of the present suit filed by the plaintiff and for this reason, the defendant no.13 could not mark its appearance nor filed its written statement. From perusal of various orders passed by the Court in the present case, it is clear that no adverse order has been passed against the defendant no.13 for its non appearance. The defendant no.13 has gone through the contents of the written statement filed by the defendant no.1, 5 & 12 and finds it appropriate to adopt the written statement as its defence. Further, there is no conflict of interest between the defendant no.1, 5 & 12 as they are members of News Broadcaster Association whereas the defendant no.13 is not the member of News Broadcaster Association. Non-

appearance of the defendant no.13 in the present case was unintentional and without any *malafide*. If the present application is allowed, no *prejudice* will be caused to the plaintiff as the defendant no.13 is praying to adopt the written statement, which is already on record and the defendant no.13 is not making any additional submission.

Brief facts as stated in the application bearing I.A.No. 6378/2019 are that the summons of the present suit was sent at the address, which was not the registered address of the defendant no.13 company. The summons on a limited company has to be served at its registered address in terms of provisions of Companies Act, 1956. Admittedly, in the present suit, no summons were served at the registered address of the defendant no.13 company. No proper service was made upon the defendant no.13 company at its registered address and the defendant no.13 received the summons in the present suit for the first time on 30/05/2018. There is no delay on the part of the defendant no.13 in filing the application seeking permission to adopt the written statement filed by the defendant no.1, 5 & 12, which is on record. No prejudice would be caused to the plaintiff, if the aforesaid application is allowed.

Counsel for the defendant no.13, in support of his contentions, has relied upon the judgments titled as **(1)** *Harendra Nath Ghosal Vs. Superfoam Pvt. Ltd. (1991 LawSuit (Cal) 104)*; **(2)** *Pannalal Vs. Murarilal (1967) 2 SCR*; **(3)** *Shalimar Rope Works Ltd. Vs. Abdul*

*Hussain H.M. Hasanbhai Rassiwalla & Others* (1980) 3 SCC 595; (4) *Naitonal Projects Constructions Corporation Ltd. Vs. Bundela Bandhu Construction Company* (139 (2007) DLT 676 (DB); (5) *Rajesh Bansal Vs. Ansal Housing Construction Ltd.* (96 (2002) DLT 668); (6) *Naresh Kumar Gupta Vs. Nav Bharat Times Co-Op. Group Housing Society Ltd.* (53 (1994) DLT 642); (7) *Veena Behl & Anr. Vs. Vasari India Pvt. Ltd.* (2014 II AD (Delhi) 612); (8) *Baldev Raj Gandok Vs. Kishan Singh Pasricha* (37 (1989) DLT 67); (9) *Salem Advocate Bar Association T.N Vs. Union of India* (2005) 6 SCC 344; (10) *Saru Smelting Pvt. Ltd. Vs. Sharda Gupta* (2012) VII AD (Delhi) 260; (11) *Anil Suri & Ors. Vs. Vikrant Khanna & Anr.* (ILR (2010) I Delhi 795); (12) *Gurcharan Singh Grewal & Anr. Vs. Punjab State Electricity Board & Ors.* (2009) 3 SCC 94 and (13) *Rajendra Prasad Gupta Vs. Prakash Chandra Mishra & Ors.* (2011) 2 SCC 705.

On 20/08/2019, it was submitted by counsel for the plaintiff that she does not wish to file reply to the aforesaid applications and she would straightway argue the same. It was also submitted by counsel for the plaintiff that the aforesaid applications are not maintainable and no sufficient ground has been mentioned by the defendant no.13 in the aforesaid applications for allowing the same and both the applications be dismissed.

Arguments already heard on the aforesaid applications of the defendant no.13. Perused the material available on record.

The plaintiff has filed the present suit for permanent injunction, rendition of accounts and damages against the defendants. The present suit was filed by the plaintiff in the year 2008. On 28/11/2014, issues were framed and the matter was fixed for plaintiff's evidence.

In both the aforesaid applications, the defendant no.13 has prayed that the defendant no.13 be permitted to adopt the written statement filed by the defendant no.1, 5 & 12. The defendant no.13 has mentioned similar prayers in both the applications. No explanation has been adduced on record by the defendant no.13 as to why the defendant no.13 has filed two applications with similar prayers under the same circumstances.

It is the contention of the defendant no.13 that no summons had been served upon the defendant no.13 at its registered office and the summons were sent to the guest house of the defendant no.13. In the present case, the defendant no.13 has not filed any document to show that the address bearing No. 17/107, Ground Floor, Vikram Vihar, Lajpat Nagar-IV, New Delhi-110024 was a guest house of the defendant no.13 when the summons of the suit were served upon the defendant no.13 on 20/09/2008 and the defendant no.13 was not having its office at 17/107, Ground Floor, Vikram Vihar, Lajpat Nagar-IV, New Delhi-110024 at that time. In view of the same, the aforesaid contention of the defendant no.13 is not tenable. On perusal of record, it is revealed that summons of the suit was duly served

upon the defendant no.13 on 20/09/2008. Vide orders dated 19/01/2009 and 18/05/2019 it was observed that there is no appearance on behalf of the defendant no.13 despite service and the defendant no.13 was directed to file written statement and reply. Vide orders dated 07/09/2009 and 01/02/2010, the defendant no.13 was again directed to file written statement and reply as per law. On perusal of record, it is revealed that the defendant no.13 has not challenged the aforesaid orders thereby the summons were treated to be served upon the defendant no.13.

It is admitted by the defendant no.13 in the IA.No.13855/2018 that the defendant no.13 received the notice of the application filed by the plaintiff on 30/05/2018 at the address 17/107, Ground Floor, Vikram Vihar, Lajpat Nagar-IV, New Delhi-110024. On perusal of record, it is revealed that the summons of the suit was also received on behalf of the defendant no.13 on the same address.

In the present case, the summons were duly served upon the defendant no.13 on 20/09/2008. Till date, no written statement has been filed by the defendant no.13 in the present case. Statutory period for filing the written statement by the defendant no.13 has already been expired. The defendant no.13 has filed the aforesaid applications after about 10 years from the date of service of the summons. The defendant no.13 failed to satisfy whether the defendant no.13 can be permitted to adopt written statement of the defendant no.1, 5 & 12 beyond the statutory period of 30 days in view of the fact that the statutory period for filing the written statement by

the defendant no.13 has already been expired. The present applications are nothing but an attempt by the defendant no.13 to adopt the written statement of the defendant no.1, 5 & 12 beyond the statutory period for filing the written statement.

No reasonable explanation has been furnished as to why the defendant no.13 wants to adopt the written statement of the defendant no.1, 5 & 12 since the defendant no.13 and the defendant no.1, 5 & 12 stated to be separate entities.

Case laws relied upon by counsel for the defendant no.13 in support of his contentions are not applicable to the facts and circumstances of the present case.

In view of the above, the aforesaid applications of the defendant no.13 are not maintainable. Considering the facts, circumstances and in view of the submissions made, the aforesaid applications of the defendant no.13 are dismissed. No order as to costs.

IAs stand disposed of.

**CS(OS) 1721/2008**

In the present case, the defendant no.13 has not filed the written statement. Statutory period for filing the written statement by the defendant no.13 has already been expired. In view of the observations made in the aforesaid applications, the right of the defendant no.13 to file the written statement stands closed.

**I.A.No. 8307/2018 under Order 16 Rule 1 r/w Section 151 CPC  
filed on behalf of the plaintiff**

At joint request, re-notify the matter for consideration on the  
aforesaid application and plaintiff's evidence on **27<sup>th</sup> April, 2020.**

**VIJAY SHANKAR (DHJS)  
JOINT REGISTRAR (JUDICIAL)**

**FEBRUARY 26, 2020/nk**