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IN THE HIGH COURT OF DELHI AT NEW DELHI

CS(OS) 122/2021

DR. SHIVPRIYA MANIVANNAN

..... Plaintiff

Through: Mr. Puneet Yadav & Mr.
Sourabh Gupta, Advs.

Versus

NATIONAL BOARD OF EXAMINATIONS & ANR

..... Defendants

Through: Mr. Kirtiman Singh, CGSC with
Mr. Waize Ali Noor & Ms. Vidhi
Jain, Advs. for D-1
Ms. Priya Rai, Adv. for D-2
(joined through VC)

CORAM:

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

ORDER

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19.12.2022

**IA No.21723/2022 under Section 151 CPC moved by
defendant no.2 seeking condonation of delay in filing
Written Statement alongwith Affidavit of
Admission/Denial of documents and documents**

Learned counsel for the applicant/defendant no.2 submits that there is only eight days delay in filing Written Statement alongwith Affidavit of Admission/Denial of documents by the defendant no.2 and the Written Statement is otherwise filed by the defendant no.2 within the period of 90 days from the date when defendant no.2 had entered appearance in the court on 13.09.2022, pursuant to service of summons. It is also mentioned in the application that defendant no.2 is based out of Chennai and it took some time to arrange for legal assistance. So, the delay in filing Written Statement and Affidavit of Admission/Denial of documents by the defendant no.2, is



neither intentional nor deliberate.

The application is vehemently opposed by learned counsel for the plaintiff, who submits that the defendant no.2 was served with summons on second occasion on 13.07.2022. The defendant no.2 earlier appeared through his counsel on 21.10.2021 after service of summons and was directed to file the Written Statement. Later on, the said counsel for defendant no.2 stated before this court that he has not received further instructions in the present matter from defendant no.2. As the service report of summons issued to defendant no.2 was not clear, this court ordered for issue of fresh summons to defendant no.2 which was served on the defendant no.2 on 13.07.2022.

He further submits that the Written Statement was filed by the defendant no.2 thereafter only on 21.10.2022. So, the Written Statement has been filed beyond the period of 90 days from the date of service of defendant no.2. It is also stated that no plausible reason has been furnished by learned counsel for the defendant no.2/applicant for the delay occasioned in filing Written Statement alongwith Affidavit of Admission/Denial of documents. So, it is argued that the application may be dismissed.

I have carefully considered the submissions and perused the record.

The application filed by the defendant no.2 is completely sketchy and nowhere in the application, the defendant no.2 has stated the date of service of summons of the suit upon defendant no.2. The defendant no.2 has stated that the Written Statement has been filed by the defendant no.2 within the period of 90 days from the date



of order dated 13.09.2022. However, the time for filing Written Statement by the defendants is reckoned from the date of service of summons and not from the date of first appearance in the court. The defendant was lastly served on 13.07.2022. However, the Written Statement has been filed by the defendant no.2 only on 21.10.2022. So, the Written Statement alongwith Affidavit of Admission/Denial of documents and documents is clearly filed beyond the period of 90 days from the date of service and no cogent reason has been furnished by defendant no.2 for not filing the Written Statement within the statutory period.

However, solely, in the interest of justice and subject to cost of Rs.15000/- to be paid by defendant no.2 to the plaintiff, the captioned IA stands allowed to the extent that the delay, if any, in filing Written Statement alongwith Affidavit of Admission/Denial of documents and documents filed by defendant no.2 are condoned and the same are taken on record. Accordingly, captioned IA stands disposed of.

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Pleadings are already complete qua defendant no.1.

Written Statement alongwith Affidavit of Admission/Denial of documents and documents filed by defendant no.2 are taken on record vide order of even date subject to payment of cost.

Replication, if any, to the same alongwith Affidavit of Admission/Denial of documents be filed by the plaintiff within the stipulated period as prescribed by law with copy to opposite side.



Re-notify the matter for completion of pleadings on
13.02.2023.

PRIYA MAHENDRA (DHJS)
JOINT REGISTRAR (JUDICIAL)
DECEMBER 19, 2022/ab
[Click here to check corrigendum, if any](#)