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

+ **CS(OS) 268/2018**

SH. PRAMOD KUMAR KHOSLA Plaintiff

Through: **Mr. S.C. Kalra & Ms. Indra Mani,**
Advocates.

versus

SH. PRAVEEN KUMAR KHOSLA & ORS Defendants

Through: **Mr. Chinmoy Pradip Sharma,**
Mr. Kush Sharma, Mr. Sahil Kalia
& Mr. Shailesh Kumar Sinha,
Advocates for D-4 & D-5.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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18.12.2019

I.A. 17969/2019(*exemption*)

Exemption allowed, subject to all just exceptions.

The application is disposed of.

I.A. 17970/2019 (*condonation of delay*) & **O.A. 155/2019**

1. Issue notice. Mr. S.C. Kalra, learned counsel for the plaintiff, accepts notice. With the consent of the parties, the appeal and the application are taken up for disposal.

2. In O.A. 155/2019, defendant nos. 4 and 5 have challenged the order of the Joint Registrar dated 06.05.2019, insofar as it closes their right to file their written statement. I.A. 17970/2019 is an application for condonation of delay in filing the appeal.



3. The case of the defendant nos. 4 and 5 is that they have not been served with the summons in the suit or with the plaint and the suit documents. Although defendant no. 4 is resident at the address mentioned in the memo of parties, it is submitted that neither she, nor any member of her immediate family, personally received the summons served upon her. It is further submitted that the summons were never forwarded to her by any person who might have received them. As far as defendant no. 5 is concerned, it is stated that she was not resident at the address mentioned in the memo of parties. She was, in fact, a resident of Mangalore, where her husband was posted, and has shifted back to Delhi only in April, 2019. It is further stated that the defendant nos. 4 and 5 became aware of these proceeding only in August, 2019, when they were informed by other defendants regarding the institution of the present suit.

4. The order of the Joint Registrar dated 28.03.2019 records that summons were served on 22.02.2019 upon these defendants, and their right to file written statement was closed by an order dated 06.05.2019. It is evident that the right to file written statement was closed prior to the expiry of the maximum extended period of 120 days from service of summons, which is available to a defendant for filing of the written statement upon due cause being shown. In these circumstances, counsel for the parties agree, after some hearing, that this application and appeal may be disposed of by permitting defendant nos. 4 and 5 to file their written statements to the suit and affidavits of admission/denial of the plaintiff's documents subject to payment of costs.

5. With consent of learned counsel for the plaintiff and defendant nos. 4 and 5, the following directions are passed:-



- a) Copies of the plaint and suit paper book will be served upon learned counsel appearing for defendant nos. 4 and 5 by 19.12.2019.
 - b) Defendant nos. 4 and 5 may file their written statement to the suit and affidavits of admission/denial of plaintiff's documents by 08.01.2020. Within the same time, defendant nos. 4 and 5 will also file any documents upon which they wish to rely. The written statement and affidavit of admission/denial and documents may be filed, subject to payment of costs of ₹25,000/-, payable to learned counsel for the plaintiff.
 - c) The plaintiff will be entitled to file replication to these written statements and file an affidavit of admission/denial of documents filed by defendant nos. 4 and 5 within two weeks thereafter.
 - d) No further time will be sought by any of the parties in this regard.
6. I.A. No. 155/2019 and I.A. No. 17970/2019 stand disposed of in these terms.

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1. List the matter before the Joint Registrar on 28.01.2020 for completion of pleadings, admission/denial of documents and marking of exhibits.
2. List before the Court alongwith pending application on 21.04.2020. The date of 15.01.2020 stands cancelled.

PRATEEK JALAN, J

DECEMBER 18, 2019/ 'pv' /s