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IN THE HIGH COURT OF DELHI AT NEW DELHI

CS(OS) 150/2010

KAMAL KUMAR NEWAR

.....Plaintiff

Through: Mr. Ashok Gurnani & Mr.
Abishek Singh, Advs.
(Mob.9810109039)

versus

NAND KUMAR NEWAR & ORS

.....Defendants

Through: Ms. Savita Rustogi, Adv. for D-1
Mr. Harsh Pal & Mr. Avneesh
Garg, Advs. for D-3&4 (joined
though VC)
D-8 has expired
None for D-2&11

CORAM:

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

ORDER

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24.01.2025

**I.A. 31842/2024 (under Order XXII Rule 4 read with
Section 151 CPC by the plaintiff seeking substitution of
the legal representatives of Late Kirti Kumar Newar
(8B), one of the legal representative of the defendant
no.8, namely, Late Shiv Mohan Newar)**

1. At this stage, it is stated by learned respective counsels for defendant no.1 and defendant no.3&4 that they do not wish to file any reply to the captioned IA.
2. No reply has been filed by defendant no.2&11 till date despite opportunity being granted to them to file the same vide order dated 29.08.2024. None is present on behalf of said defendants today to explain in this regard. So, right of said defendant no.2&11 to file reply is ordered to be closed.
3. It is stated by learned counsel for the plaintiff that in terms of para no.5 of the order dated 29.08.2024, he has filed Affidavit of Service qua all the surviving LRs of deceased defendant no.8 and other un-served defendants. However, he concedes that the same is filed only



yesterday. The said Affidavit of Service is not on record. Learned counsel for the plaintiff is directed to take requisite steps to bring the same on record. Learned counsel for the plaintiff also submits that as per said Affidavit of Service all the surviving LR's of deceased defendant no.8 and other un-served defendants have not been served with notice of the captioned IA and he will file an appropriate application qua substituted service of all the surviving LR's of deceased defendant no.8 and other un-served defendants. The same be filed within three weeks with copy to the opposite side.

4. Re-notify the captioned IA for completion of pleadings on **18.03.2025**.

IA No. 5256/2013 u/s 151 CPC by plaintiff;

5. Pleadings are already complete.

6. At request of the applicant, place the captioned IA before the Hon'ble Court on date fixed i.e. **21.04.2025**, for further directions.

IA No. 342/2014 u/O 40 R.1 CPC by defendant no.3&4;

7. Pleadings are already complete.

8. At request of the applicants, place the captioned IA before the Hon'ble Court on date fixed i.e. **21.04.2025**, for further directions.

IA No. 275/2018 u/O XXXIX R.2A CPC by defendant nos. 3&4

9. Pleadings are already complete.

10. Learned counsel for the plaintiff has invited my attention to the order dated 18.11.2019 and stated that the detailed order has already been by the Hon'ble Court qua the captioned IA. Learned counsels for the plaintiff and defendant no.3&4 seek sometime to inspect the file and apprise the court qua status of the captioned IA on the next



date of hearing.

11. At request, re-notify the captioned IA on **18.03.2025.**

IA No. 4819/2018 u/s 10 CPC by defendant no.1;

12. Pleadings are already complete.

13. At request of the applicants, place the captioned IA before the Hon'ble Court on date fixed i.e. **21.04.2025**, for further directions.

IA No. 3501/2018 u/O XXXIX R.1 & 2 CPC by plaintiff

14. As per record, reply of defendant no.1 and LR's of defendant no.8 (B) (C), 5 (E) and (F) are already on record but rejoinder to the same has not been filed by the plaintiff till date **despite last and final opportunity vide order dated 29.08.2024**. Learned counsel for the plaintiff again seeks sometime to file rejoinder. In the interest of justice and subject to deposit of cost of Rs.2500/- upon the plaintiff, now one more last and final opportunity is granted to the plaintiff to file rejoinder within two weeks with copy to the opposite side.

15. Re-notify the captioned IA for completion of pleadings on **18.03.2025.**

IA No. 14798/2018 u/s 151 CPC by defendant nos.3 & 4 for consolidation of the present suit with CS (OS) 362/2009

16. At this stage, learned counsel for the applicants submits that he wants to withdraw the captioned IA.

17. Accordingly, the captioned IA stands disposed of as being withdrawn.

IA No. 9232/2023 u/O XXII R.4 (4) CPC seeking exemption from bringing on record LR's of defendant no.6 and in the alternative, u/O XXII R.4 CPC for bringing the LR's of defendant no.6

18. The right of defendant no.1 to file reply has already



been ordered to be closed.

19. It is already stated by learned counsel for the defendant no.3&4 that she has no objection to the captioned IA.

20. No reply to the captioned IA has been filed by defendant no.2,6A,6B, 8E, 8H, 9A to 9F, 9H, D-10&D-11 despite service and even, none is present on behalf of said defendants today to explain in this regard. So, right of said defendants to file reply is ordered to be closed.

21. It is stated by learned counsel for the plaintiff that he has filed Affidavit of Service qua all the surviving LR's of deceased defendant no.8 and other un-served defendants. However, he concedes that the same is filed only yesterday. The said Affidavit of Service is not on record. Learned counsel for the plaintiff is directed to take requisite steps to bring the same on record. Learned counsel for the plaintiff also submits that as per said Affidavit of Service all the surviving LR's of deceased defendant no.8 and other un-served defendants have not been served with notice of the captioned IA and he will file an appropriate application qua substituted service of all the surviving LR's of deceased defendant no.8 and other un-served defendants. The same be filed within three weeks with copy to the opposite side.

22. Re-notify the captioned IA for completion of service qua un-served defendants on **18.03.2025**.

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23. It is stated by learned counsel for the plaintiff that he has filed Affidavit of Service qua all the surviving LR's of deceased defendant no.8 and other un-served defendants.



However, he concedes that the same is filed only yesterday. The said Affidavit of Service is not on record. Learned counsel for the plaintiff is directed to take requisite steps to bring the same on record. Learned counsel for the plaintiff also submits that as per said Affidavit of Service all the surviving LR's of deceased defendant no.8 and other un-served defendants have not been served with notice of the captioned IA and he will file an appropriate application qua substituted service of all the surviving LR's of deceased defendant no.8 and other un-served defendants. The same be filed with copy to the opposite side.

24. The order dated 01.04.2024 records that Written statement has been filed by defendant nos.1,2,3, 4 & 8. Replication to written statement of defendant no.1,2,3, 4 & 8 are on record.

25. Learned counsel for the plaintiff submits that he has filed Affidavit of Admission/Denial of the documents in compliance of the order dated 29.08.2024 only yesterday. The same is not on record. He is directed to take requisite steps to bring the same on record. Learned counsels for defendant no.1 and defendant no.3&4 submit that they have not received copy of the same, to which learned counsel for the plaintiff submits that he will supply the same within one week through email. Let needful be done as stated.

26. Learned respective counsels for defendant no.1 and defendant no.3&4 seek sometime to file Affidavit of Admission/Denial of the documents despite the last and final opportunity being granted vide order dated 29.08.2024. So, cost of Rs.2500/- is imposed upon



defendant no.3&4 to be deposited with Delhi High Court Legal Services Committee. Now, one more last and final opportunity is granted to said defendants to file the same within two weeks with copy to the opposite side.

27. Further, it is already recorded that no written statement has been filed by defendant nos. 5 to 7 & 9 to 11 till date and none is present on behalf of said defendants to explain in this regard. So, the right of said defendants to filed Written Statement is ordered to be forfeited.

Re-notify the matter for further proceedings on **18.03.2025.**

PRIYA MAHENDRA (DHJS)
JOINT REGISTRAR (JUDICIAL)
JANUARY 24, 2025/ab

Click here to check corrigendum, if any