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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.
Abhishek Singh, Advs.
(Mob.9810109039)

versus

NAND KUMAR NEWAR & ORS

.....Defendants

Through: Ms. Savita Rustogi, Adv. For
D-1
Ms. Iitisha, Adv. For D-3&4

CORAM:

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

ORDER

% **18.03.2025**

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 ; and

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. The right of defendant no.1 to file reply qua IA no.9232/2023 has already been ordered to be closed.

2. It is already stated by learned counsel for defendant no.1 that he does not wish to file any reply to IA No.31842/2024.

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

3. The right of defendants no.2,6A,6B, 8E, 8H, 9A to 9F, 9H, D-10&D-11 to file reply to IA no.9232/2023 has already been ordered to be closed.

4. The right of said defendants no.2&11 to file reply to IA no.31842/2024 has already been ordered to be closed.



5. Despite the order dated 24.01.2025, the plaintiff has not filed requisite application qua substituted service of surviving LR's of deceased defendant no.8 as well as other un-served defendants in terms of submissions made on the last date of hearing. It be noted that the matter is pending disposal since the year 2010 and needs to be disposed of expeditiously. Further, the matter was listed on 24.01.2025 and counsel for the plaintiff had ample time to ensure compliance of the last order. So, no ground is made out to give further opportunity to the plaintiff in this regard. However, solely, in the interest of justice and subject to imposition of cost of Rs.25,000/- imposed upon the plaintiff to be deposited with Delhi High Court Legal Services Committee, the plaintiff is allowed to take requisite steps for service of surviving LR's of deceased defendant no.8 and other un-served defendants with notice of both captioned IAs as a last and final opportunity. At request, the plaintiff is granted two weeks' time to file requisite application qua substituted service of surviving LR's of deceased defendant no.8 as well as other un-served defendants with copy to opposite side.

6. Re-notify the captioned IA for completion of pleadings on the next date of hearing.

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

7. Pleadings are already complete.

8. Learned counsel for the plaintiff seeks some more time to inspect the file and apprise the court qua status of the captioned IA in view of order dated 18.11.2029, on the next date of hearing. In the interest of justice, no adverse order is being passed today and the last and final



opportunity is granted to the plaintiff for the same.

9. At request, re-notify the captioned IA on the next date of hearing.

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

10. As per record, reply of defendant no.1 and LRs 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 being granted the last and final opportunity vide order dated 29.08.2024 and 24.01.2025 subject to deposit of cost of Rs.2500/-. The said cost has also not been deposited by the plaintiff. Accordingly, the right of the plaintiff to file rejoinder is ordered to be closed.

11. Re-notify the captioned IA for completion of pleadings on the next date of hearing.

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12. The plaintiff is directed to take requisite steps for service of surviving LRs of deceased defendant no.8 and other un-served defendants as a last and final opportunity. At request, the plaintiff is granted two weeks' time to file requisite application qua substituted service of surviving LRs of deceased defendant no.8 as well as other un-served defendants with copy to opposite side.

13. 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.

14. The plaintiff has not taken requisite steps to bring on record the Affidavit of Admission/Denial of the documents till date despite the order dated 24.01.2025 for which no plausible explanation is furnished by the plaintiff. So, cost



of Rs.2000/- imposed upon the plaintiff to be deposited with Delhi High Court Legal Services Committee and the last and final opportunity is granted to the plaintiff to take requisite steps within two weeks to bring Admission/Denial Affidavit on record.

15. The defendant no.3&4 have not filed Affidavit of Admission/Denial of the documents till date despite the last and final opportunity being granted to them vide order dated 29.08.2025. Even cost of Rs.2500/- for the same was also imposed upon defendant no.3&4 vide order dated 24.01.2025. The said cost has also not been deposited till date. It be noted that vide order dated 01.04.2024, the defendant no.3&4 were directed to file Admission/Denial Affidavit. So, no ground is made out to give further opportunity to defendant no.3&4 in this regard. So, the right of defendant no.3&4 to file Admission/Denial Affidavit is ordered to be closed.

Needless to say the consequences for not filing Admission/Denial Affidavit by the defendants shall follow as per Chapter VII of Delhi High Court (Original Side) Rules.

16. On the last date of hearing i.e. 24.01.2025, learned counsel for the defendant no.1 sought time to file Admission/Denial Affidavit despite being granted the last and final opportunity vide order dated 29.08.2025. However, today learned counsel for the defendant no.1 submits that she has already filed Admission/Denial Affidavit qua documents of the plaintiff but she is not able to give the date of filing and diary number of the same. Even, she is not able to explain that when it was already



filed then why submission was made by her on the last date of hearing that she wanted to file Affidavit of Admission/Denial of the documents. So, cost of Rs.5000/- is imposed upon defendant no.1 to be deposited with Delhi High Court Legal Services Committee and learned counsel for the defendant no.1 is directed to inspect the file and apprise the court in this regard on the next date of hearing.

17. The right of defendant nos. 5 to 7 & 9 to 11 to file Written Statement has already been ordered to be forfeited.

Re-notify the matter for further proceedings on 20.05.2025.

PRIYA MAHENDRA (DHJS)
JOINT REGISTRAR (JUDICIAL)

MARCH 18, 2025/ab

Click here to check corrigendum, if any