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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CS(COMM) 1136/2018

**MR. TOSHIKI AIBA AS THE BANKRUPTCY TRUSTEE OF
THE ESTATE OF VIPAN KUMAR SHARMA Plaintiff**

**Represented by: Ms. Savita Sarna, Ms. Manila Munjal,
Ms. Lesley Rajan, Advs.**

versus

MR. VIPAN KUMAR SHARMA & ANR. Defendant

**Represented by: Mr. Shashank Garg, Mr. Tariq Khan,
Ms. Aastha Jain, Advs. for D-1.
Mr. Divyakant Lahoti, Ms. Amrita
Grover, Mr. Parikshit, Advs. for D-2.**

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

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16.12.2019

O.A. 126/2019 (by D-1)

1. By this appeal the defendant No.1 challenges the order dated 17th September, 2019 whereby the learned Joint Registrar held that the defendant was served on 4th October, 2018 and having filed the written statement on 2nd February, 2019 being beyond 120 days the delay in filing the written statement could not be condoned.

2. A perusal of the record reveals that defendant No.1 was served by ordinary process on 15th October, 2018 and as per the affidavit of service filed by the plaintiff and the tracking report reveals that delivery was made on 24th October, 2018. Taking the date of service to defendant No.1 as 15th October, 2018 the written statement having been filed on 2nd February, 2019 i.e. within 120 days of the service of summon with an explanation given

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with regard to condonation of delay, the order of the learned Joint Registrar dated 17th September, 2019 not condoning the delay in filing of the written statement is liable to be set aside.

3. The order dated 17th September, 2019 passed by the learned Joint Registrar is set aside. The delay in filing the written statement is condoned.

4. Appeal is disposed of.

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1. Written statement filed by defendant No.1 be taken on record. Replication to the written statement if any be filed within three weeks along with affidavit of admission/ denial by the plaintiff.

2. List before the learned Joint Registrar on 10th January, 2020 for admission/ denial of documents if any.

3. List before Court for settling the issues, if any, on 4th March, 2020.

MUKTA GUPTA, J.

DECEMBER 16, 2019

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