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

+ **CS(COMM) 1136/2018**

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

..... Plaintiff

Through: Ms. Savita Sarna, Ms. Manila Munjal,
Ms. Natasha Sahni & Ms. Raveena
Verma, Advocates.

versus

MR. VIPAN KUMAR SHARMA & ANR.

..... Defendant

Through: Mr. Shashank Garg, Adv. for D-1
Mr. Divyakant Lahoti & Ms. Amrita
Grover, Advocates for D-2.

**CORAM:
SH. VIJAY SHANKAR (DHJS), JOINT REGISTRAR
(JUDICIAL)**

**ORDER
11.04.2019**

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**I.A.No. 17843/2018 under Section 5 of the Limitation Act filed on behalf
of the defendant no.2 for condonation of delay in filing written
statement**

It is submitted by counsel for the defendant no.2 that in the present case, the written statement could not be filed by the defendant no.2 within statutory period due to the reasons as mentioned in the present application and delay in filing the written statement be condoned.

It is submitted by counsel for the plaintiff that she has no objection, if

the aforesaid application of the defendant no.2 is allowed.

Arguments heard on the aforesaid application of the defendant no.2. Perused the material available on record. Considering the facts, circumstances and submissions made, aforesaid application of the defendant no.2 is allowed subject to cost of Rs.5,000/- to be deposited with Army Welfare Fund Battle Casualties. Receipt of cost be furnished before the next date of hearing. Written statement of the defendant no.2 already stated to be filed. Copy already stated to be supplied.

IA stands disposed of.

I.A.No. 17844/2018 under Section 151 CPC filed on behalf of the defendant no.2 for exemption from filing original documents and fair typed copies of illegible/dimmed documents of all annexures

It is submitted by counsel for the defendant no.2 that without prejudice to the rights and contentions of the defendant no.2, the defendant no.2 be permitted to withdraw the aforesaid application. Not opposed.

Heard. In view of the submissions made, the aforesaid application of the defendant no.2 stands disposed of as withdrawn.

I.A.No. 2196/2019 under Section 5 of the Limitation Act r/w Section 151 CPC filed on behalf of the defendant no.1 for condonation of delay in filing the written statement

Reply to the aforesaid application already stated to be filed by the plaintiff. Copy already stated to be supplied.

It is submitted by counsel for the defendant no.1 that he wishes to file rejoinder and time be granted for the same. Heard. Request is allowed. Rejoinder be filed within a week with direction to supply the advance copy of the same to the opposite counsel.

It is submitted by counsel for the plaintiff that she wishes to file tracking report of the summons sent to the defendant no.1 and she may be permitted to file the same within a week. Heard. Request is allowed.

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Affidavit of admission/denial of the documents already stated to be filed by the defendant no.2. However, it is submitted by counsel for the defendant no.2 that the same is not in accordance with the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 and he may be permitted to file the fresh/proper affidavit of admission/denial of the documents. Heard. Request is allowed. Defendant no.2 is directed to file fresh/proper affidavit of admission/denial of the documents within two weeks with direction to supply the advance copy of the same to opposite counsel.

Counsel for the plaintiff seeks time for filing replication to the written statement of the defendant no.2 and affidavit of admission/denial of the documents within four weeks. Heard. Request is allowed. Same be filed within four weeks with direction to supply the advance copy of the same to opposite counsel.

At joint request, re-notify the matter for completion of pleadings qua the suit, admission/denial of the documents and arguments/consideration on the IA No. 2196/2019 on **13th August, 2019.**

**VIJAY SHANKAR (DHJS)
JOINT REGISTRAR (JUDICIAL)**

APRIL 11, 2019/nk