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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(OS) 440/2017, IA No.10688/2017 (under Order XXXIX Rules 1&2 CPC), IA No.10689/2017 (under Section 80 CPC), IA No.14017/2017 (under Order I Rule 3(10) CPC) and IA No.14941/2017 (under Order 1 Rule 10 CPC).
COMMONWEALTH GAMES VILLAGE APARTMENT OWNERS ASSOCIATION Plaintiff
Through: Mr. Jayant Mehta, Mr. Vijai Banerjee and Mr. Akash Khurana, Advs.
versus
EMAAR MGF CONSTRUCTION PVT. LTD. &ORS Defendants
Through: Mr. Darpan Wadhwa, Sr. Adv. with Mr. Pallav Pandey, Mr. Kshitij Parashar and Mr. Sarthak Sachdev, Adv. for D-1.
Mr. Pawan Mathur, Standing Counsel for DDA.

CORAM:
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW
ORDER
% **22.01.2018**

IA No.1026/2018 (of the plaintiff under Order VIII Rule 10 CPC).

1. The senior counsel for the defendant no.1 appears on advance notice and states that the written statement with application for condonation of delay has been filed on 16th January, 2018 but the same is lying under objection.
2. However on enquiry, whether advance copy has been given, it is confirmed that it has not been given and on the senior counsel for the defendant no.1 being asked to give a copy today in the Court, it is stated that it will take another one week to finalise.

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3. It is quite obvious that the filing if any is of a bunch of papers, not intended to be a written statement. The defendant no.1 was served on 25th September, 2017 and appeared before the Joint Registrar on 10th October, 2017.
4. The defendant no.1 has indeed unduly delayed the filing of the written statement.
5. However so as not to precipitate the matter at this stage, it is deemed appropriate to grant conditional opportunity to the defendant no.1 to file the written statement.
6. Subject to the written statement being filed on or before 29th January, 2018 and subject to the defendant no.1 giving advance copy thereof to the counsel for the plaintiff/applicant on or before 29th January, 2018 along with costs of Rs.1,00,000/-, the written statement shall be taken on record. However, if the written statement is not so filed or advance copy not given or costs not paid to the counsel for the plaintiff/applicant, the right of the defendant no.1 to file written statement shall stand closed and the plaintiff/applicant would be entitled to opt to seek decree forthwith or to lead evidence.
7. The senior counsel for the defendant no.1 protests against the costs.
8. The costs have been imposed, considering (i) the quantum of delay; (ii) the quantum of claim in the suit being Rs.19,56,52,783/-; (iii) the defendant no.1, notwithstanding the amendment to the Code of Civil Procedure of the year 2002, continuing to act in terms of the law of prior thereto; unless the Court adopts the said measure, the Courts would clearly be sending out a signal that the litigants can continue to delay the disposal of
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the suit at the stage of filing written statement itself; and, (iv) the conduct of the defendant no.1; the defendant no.1, to save the date of filing written statement, has done a pretence of filing the same when the written statement is admittedly not ready till date.

9. The application is disposed of.

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10. If the written statement is filed, replication thereto be filed within four weeks.

11. The parties to file affidavits of admission/denial of each other's documents one week before 9th April, 2018, when the suit is listed before the Joint Registrar and on which date, exhibit marks would be put on admitted documents.

12. List before the Court, as already scheduled, on 30th July, 2018.

RAJIV SAHAI ENDLAW, J

JANUARY 22, 2018

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