

\$~4

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

FAO(OS) 99/2019 and C.M.No.21954/2019

HARISH CHANDER & ANR

..... Appellants

Through: Mr.Raj Kishore Choudhary, Mr.
Shakeel Ahmed, Mr.Anupam Bhati
and Ms. Malvika Raghavan,
Advocates.

versus

SUNIL KUMAR & ANR

..... Respondents

Through: Mr.Abhijat, Mr.Neeraj, Mr.Harsh,
Mr. Arpit Kumar Singh and
Mr.Subhash Yadav, Advocates.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

%

02.12.2019

1. The present appeal challenges an order dated 23rd April, 2019 in CS(OS) 456/2018 by which the opportunity to Appellants/Defendants to file a Written Statement ('WS') was closed. The short ground on which the Appellants/Defendants have challenged the above order of the learned Single Judge is that the WS was in fact filed but that it was lying in defect, which fact was noted in an order dated 15th January, 2019 of the Joint Registrar (Original Side), but not accounted for by the learned Single Judge while passing the impugned order.

2. Learned counsel for the Plaintiff/Respondents herein draws attention to Rule 4 of Chapter 7 of the Delhi High Court (Original Side) Rules, 2018 which states that the Court may extend the time for filing the WS by no

further than ninety days.

3. On the other hand, learned counsel for the Appellants/Defendants draws attention to Chapter 4 Rule 3 which deals with “Defective pleadings/document”.

4. Without entering into a discussion on whether in the facts of the present case the above Rules should be invoked by either of the parties and are in fact applicable in the circumstances of the case, the Court considers it appropriate to leave it to the parties to urge their contentions before the learned Single Judge.

5. In order to facilitate this exercise, the Court permits the Appellants/Defendants to file an application seeking condonation of delay in filing the WS. It is made clear that the Court must not be understood as having accepted any explanation that the Appellants/Defendants may have to offer in the said application for condonation of delay.

6. Such application shall be filed not later than 9th December, 2019 and shall be placed for consideration before the learned Single Judge on the next date of hearing i.e. 24th February, 2020. Upon receipt of the advance copy of the application, the Plaintiffs/Respondents herein, shall file the reply thereto, and the rejoinder thereto shall also be filed before the date of 24th February, 2020, already fixed in the matter. It is made clear that the application will be placed before the learned Single Judge on the aforementioned date, notwithstanding that the application may for some reason be lying under

objections.

7. Subject to the above steps being taken, the impugned order dated 23rd April, 2019, to the extent that it closes the right of the Appellants to file the WS, is set aside. The learned Single Judge will now proceed in the suit in accordance with law, after disposing of the aforementioned application of the Defendants/Appellants herein.

8. The appeal is disposed of in the above terms. The pending application also stands disposed of.

S.MURALIDHAR, J.

TALWANT SINGH, J.

DECEMBER 02, 2019

mr