

\$~21

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

+ I.P.A. 12/2016 & IA No.9587/2016 (u/O XXXIX R-1&2 CPC)

PARIDHI AGGARWAL ..... Petitioner  
Through: Mr. Jaskaran Singh, Adv.

Versus

RAM KUMAR AGGARWAL & ORS ..... Respondents  
Through: Mr. Vipul Goel, Adv. for R-1.  
Mr. Mr. Deepak Jain, Adv. for D-2.  
Mr. Sahil Kakkar, Adv. for D-3&4.  
Mr. Amit Wahi, Adv. for D-5.

**CORAM:**

**HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW**

**ORDER**

%

**07.03.2019**

1. Though vide order dated 26<sup>th</sup> October, 2018, the application under Order XXXIII of the Code of Civil Procedure, 1908 of the plaintiff was allowed and the suit ordered to be registered but the Registry has not done the same till now.
2. The Registry to explain to the undersigned.
3. The counsel for the plaintiff states that he has received the written statements of defendants No.2 to 4 only a few days back.
4. The written statement of the defendant No.2 as well as defendants No.3&4 are found to have been filed on 28<sup>th</sup> February, 2019 i.e. beyond 30 days from 26<sup>th</sup> October, 2018 when they were served with the summons of the suit. No application for condonation of delay in filing the written

statement has been filed. The written statements filed beyond time cannot be taken on record.

5. I have enquired from the counsel for the defendant No.2 as well as the counsel for defendants No.3&4, whether they are willing to pay costs for the written statements to be taken on record.

6. They answer in the affirmative.

7. Subject to the defendant No.2 on the one hand and the defendants No.3&4 together on the other hand paying costs of Rs.15,000/- each to the plaintiff, the written statements are taken on record. However, if the costs are not paid within two weeks of today by bank draft in the name of the plaintiff through counsel, the written statements shall be deemed to have been filed beyond time and shall not be taken on record.

8. The defendant No.1 has not filed the written statement till now.

9. The counsel for the defendant No.1 though had been served with the summons of the suit on 26<sup>th</sup> October, 2018, has not filed written statement till date and the explanation given, of having not been served with the paper book, is found false. The defendant No.2, who has filed the written statement, is the wife of the defendant No.1 and is living with the defendant No.1. However, subject to the defendant No.1 filing the written statement with advance copy to the counsel for the plaintiff personally on or before 14<sup>th</sup> March, 2019 and further subject to the defendant No.1 paying costs of Rs.20,000/- to the plaintiff by bank draft in favour of the plaintiff through the counsel, the defendant No.1 is given last opportunity to file a written statement, failing which the right to file written statement shall stand closed.

10. The counsel for the defendant No.5 states that no written statement is required to be filed.

11. The defendant No.6 is the minor brother of the plaintiff and the counsel for the plaintiff states that the defendant No.6 has been adopted by his mother's second husband Mr. Mohit Gupta and the interest of the defendant No.6 is the same as that of the plaintiff.

12. Subject to the costs being paid and written statements being taken on record, as aforesaid, replications thereto, if any, be filed within five weeks herefrom.

13. The parties to file affidavits of admission/denial of each other's documents before the next date of hearing.

14. List on 16<sup>th</sup> July, 2019 for framing of issues, if any and for consideration of the application for interim relief.

**RAJIV SAHAI ENDLAW, J.**

**MARCH 07, 2019**

'bs'..