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

+ CS(COMM) 318/2021, I.A. 8022/2021, I.A. 8024/2021, I.A.
8872/2022 & I.A. 8873/2022

X

.....Plaintiff

Through: Mr. Rakesh Chander Agrawal,
Advocate (through VC)

versus

Y

.....Defendant

Through: Mr. Romil Pathak, Mr. Amit Kumar
and Mr. Aryan Pathak, Advocates for
D-1 and D-2.
Ms. Asavari Jain, and Mr. Sauhard
Alung, Advocates for D-3.
Mr. Varun Pathak, Ms. Ameer Rana
and Mr. Yash Karunakaran, Advs. for
D-4. (Mob: 9903807112)

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER
02.12.2024

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1. The present suit has been listed before this Court pursuant to the order dated 27th September, 2024, passed by the Joint Registrar (Judicial), wherein, it has been recorded, as follows:

“The plaintiff has not filed the physical copies of its documents, despite the last opportunity granted on 19.07.2024, when the costs were also imposed. Neither those directions have been complied with by the plaintiff, nor anyone has appeared for it to explain the non-compliances. The previous conduct of the plaintiff is also not above board whereby the suit is not progressing at the desired pace whereby



precious judicial time is being wasted.

The defendant no. 1 & 2 have though complied with the directions dated 19.07.2024 regarding the filing of the physical copies of their documents as well as the payment of the costs.

The defendant no. 3 had already filed the physical copies of its documents.

In view of the non-appearance as well as the non-compliances by the plaintiff, the matter be now placed before the Hon'ble Court on 02.12.2024 for further directions.

IA No. 16066/2021 (u/o 6 Rule 17 r/w Section 151 CPC for amendment of memo of parties)

The plaintiff has not filed the amended memo of parties as per the directions dated 28.02.2024, though today was the last opportunity for the same. Accordingly its right in respect thereof is forfeited."

2. A perusal of the aforesaid order shows that the plaintiff has not filed the physical copies of the documents, despite last opportunity granted to the plaintiff on 19th July, 2024, when costs were also imposed.
3. Perusal of the record shows that vide order dated 28th February, 2024, the right of the plaintiff to file replication was closed, since despite the expiry of the stipulated period, replication had not been filed on behalf of the plaintiff.
4. Further, vide the same order dated 28th February, 2024, directions were issued to the parties to file physical copies of their respective documents.
5. The order dated 28th February, 2024, reads as under:

"The counsel for the defendant nos. 1 & 2 states that the costs dated 06.12.2023 were deposited on 20.12.2023. He had filed the receipt, vide diary no. 584256/24 today itself. The office noting in respect thereof is however awaited.

The plaintiff has not filed any replications qua the defendant nos. 1 & 2, despite the expiry of the stipulated period. Hence the rights in respect thereof are closed. The pleadings in respect of the defendant nos. 1 & 2 are hence complete.



*The pleadings the defendant nos. 3 & 4 were already complete.
(Refer: order dated 06.12.2023)*

*The defence of the defendant no. 5 had already been struck off
on 15.03.2023.*

*The contesting parties shall now file the physical copies of their
respective documents, if not already filed and the joint schedule of the
documents.*

*List the matter for admission-denial and marking of exhibits on
15.05.2024.*

**IA No. 8022/2021 (u/o 39 Rule 1 & 2 r/w Section 151 CPC
procedure for stay)**

*The plaintiff has not filed any rejoinders to the replies of the
defendant nos. 1 to 4. Its rights in respect thereof are thus closed.*

**IA No. 8024/2021 (By plaintiff seeking Interrogatories u/o 11 Rule 2
As amended by the Commercial Courts, Commercial Division and
Commercial Appellate Division Act r/w Section 151 CPC)**

*The plaintiff has not filed any rejoinders to the replies of the
defendant nos. 1 & 2. Its rights in respect thereof are thus closed.*

**IA No. 16066/2021 (u/o 6 Rule 17 r/w Section 141 & 151 CPC for
amendment of memo of parties)**

*The plaintiff is yet to file the amended memo of parties as per
order dated 06.12.2023. That be filed before the next hearing, either
by the plaintiff or the defendant no. 3 or the defendant no. 4, which
are the parties effected in respect thereof.*

**IA No. 8872/2022 (By D-1 & 2 u/o 7 Rule 11 CPC for rejection of
the plaint) & 8873/2022 (By D-1 & 2 u/o 39 Rule 1 & 2 CPC)**

*The plaintiff has not filed the replies till date. Its rights in
respect thereof are hence closed.”*

6. Though, the physical copies of the documents has been filed by the defendants, however, the physical copies of the documents, as directed to be filed vide order dated 28th February, 2024, has still not been filed by the plaintiff.

7. Attention of this Court has also been drawn to the order dated 31st May, 2022, wherein, notice was issued on the applications filed on behalf of defendant nos. 1 and 2.



8. It is submitted that the reply to the said applications has still not been filed, despite time of more than two years. The order dated 31st May, 2022, reads as under:

“1. This hearing has been done through hybrid mode.

I.As.8872/2022 (u/O VII Rule 11 CPC) & 8873/2022 (interim stay)

2. These are two fresh applications under Order VII Rule 11 CPC and Order XXXIX Rules 1 & 2 CPC filed on behalf of Defendant Nos.1 & 2.

3. None has appeared for the Plaintiff and Defendant Nos.1 & 2.

4. Mr. Aditya Gupta, ld. Counsel appearing for Google LLC submits that in terms of the order dated 12th July, 2021, ‘Bihar Bachao’ YouTube channel has been taken down.

5. Issue notice in the applications.

6. Let replies to the applications be filed by the Plaintiff within six weeks.

7. List before the Joint Registrar on 18th July, 2022, the date already fixed. After completion of the pleadings, the matter shall be listed before the Court.”

9. Mr. Rakesh Chander Agrawal, appears on behalf of the plaintiff and submits that he has not been able to obtain instructions from his client. He submits that he has tried to contact his client on a number of occasions. However, her mobile phone is switched off.

10. Thus, he submits that in the absence of any instructions from his client, he cannot make any statement.

11. Considering the aforesaid facts and circumstances, it is clear that the plaintiff is not interested in prosecuting the present suit.

12. The present suit has not proceeded any further and even admission/denial of documents, is yet to take place.

13. The plaintiff has neither filed any replies to the application since the year 2022, nor has filed the physical documents, as directed vide order dated 28th February, 2024.



14. Further, this Court also notes that vide order dated 28th February, 2024, directions had been issued to the plaintiff to file amended memo of parties. However, even the same has not been done.

15. In view thereof, it is evident that the plaintiff is not interested in pursuing the present suit, any further.

16. Accordingly, the present suit is dismissed for non-prosecution, along with the pending applications.

MINI PUSHKARNA, J

DECEMBER 2, 2024

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