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

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CS(OS) 2463/2010

SATISH CHAND GUPTA & ANR

..... Plaintiffs

Through: Mr. Lalit Gupta, Adv. with  
Mr.Siddharth Arora, Adv.

versus

SANJEEV KUMAR GUPTA & ORS

..... Defendants

Through: Mr.Pankaj Malhotra, Adv. for D-3

**CORAM:**

**JOINT REGISTRAR (JUDICIAL) SH. PURSHOTAM PATHAK  
(DHJS)**

**ORDER**

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**14.12.2021**

**I.A. No.11221/2021 filed by defendant no.1 & 2 under Order 17  
Rule 3 CPC for closing of evidence of plaintiff**

Vide this order, I shall dispose of the present application filed by defendants no.1 & 2 under Order 17 Rule 3 CPC for closing the evidence of plaintiff.

It is stated that vide order dated 29.01.2020 issues were framed and the plaintiffs were directed to file their affidavit of examination-in-chief within six weeks, but neither any affidavit in evidence nor any list of witnesses was filed within six weeks. It is further stated that on next date of hearing i.e. 24.04.2020 case was adjourned for 26.06.2020 and thereafter it was adjourned to 21.08.2020 and again to 08.10.2020, however, neither the affidavit in evidence nor affidavit of any witness has been filed. It is submitted that already more than three dates have been taken by the plaintiffs, thus, apparently the conduct of plaintiffs are also outside the preview of the Order 17 Rule



3 CPC. It is also stated that plaintiffs have waived their rights to lead evidence, hence the right of plaintiffs to lead evidence is liable to be closed.

Though, no formal reply has been filed by the plaintiffs, they have opposed the application.

I have gone through the rival contentions.

Learned counsel for defendants no.2 & 3 has argued on the lines of contents of application and has submitted that plaintiffs have not filed the affidavit of examination-chief and list of witnesses and also have taken more than three dates, hence, their right to lead evidence may be closed.

On the other hand, learned counsel for plaintiffs has argued that affidavit of examination-chief and list of witnesses is already on record and same could not be filed during the alleged period as the courts were closed due to COVID-19 pandemic.

The defendants no.2 & 3 have filed the present application for closing the evidence of plaintiffs on the ground that the plaintiffs have not filed the affidavit of evidence and list of witnesses, within six weeks, as directed by the Court and also despite taking three dates.

In the present case, issues were framed on 29.01.2020 and plaintiffs were directed to file the list of witnesses within four weeks and affidavit by way of examination-in-chief of all the witnesses within six weeks thereafter and the case was adjourned for 24.04.2020. As per the directions of the Hon'ble Court the list of witnesses was to be filed within four weeks, that is by 26.02.2020 and affidavit of examination-in-chief, six weeks thereafter, that is by



10.04.2020.

Before the plaintiffs could have complied with the directions of the Hon'ble Court in regard to filing of affidavit of examination-in-chief, the courts work was suspended w.e.f. 17.03.2020 and lock down was imposed on 24.03.2020 due to COVID-19 pandemic.

The Hon'ble Supreme Court of India in *suo-moto* W.P.(C) No.3/2020 extended the limitation period in general and/or special laws, for filing petitions/ applications/ suits/appeals/all other proceedings w.e.f. 15.03.2020.

On all the three alleged dates i.e. 27.04.2020, 24.06.2020 and 21.08.2020, matter was adjourned en-block in view of directions of the Hon'ble Supreme Court of India and as such the limitation for filing the affidavit for examination-in-chief in the present case also extended. The abovesaid order was still operational at the time of said three adjournments. Hence, the said period shall remain excluded even in the case of adjournments.

In view of the aforesaid discussions, the captioned I.A. is dismissed and is accordingly disposed of.

**I.A. No.12744/2021 filed by plaintiff for impleadment of LRs of defendant no.2**

Reply to application not re-filed by LRs of defendant no.2. Let the same be filed as per rules with advance copy to opposite party.

Put up for completion of pleadings on 08.02.2022.

**PURSHOTAM PATHAK (DHJS), J**  
**DECEMBER 14, 2021/tp**

[Click here to check corrigendum, if any](#)