



2025:DHC:3771



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

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Reserved on: May 06, 2025
Pronounced on: May 15, 2025

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CS(COMM) 987/2018, I.A. 8483/2018-Stay, I.A. 8484/2018-O 26
R 9 CPC

NATIONAL FIRE PROTECTION ASSOCIATION, INC.

.....Plaintiff

Through: Ms. Mamta Rani Jha, Ms. Reha
Mohan and Ms. Akanksha
Majumdar, Advs.

Versus

SWETS INFORMATION SERVICES PVT. LTD.
& ORS.

.....Defendants

Through: Mr. Sanjay Sehgal, Mr. Shivesh
Sehgal, Mr. Prateek Bhardwaj and
Mr. Anil Kumar, Advs. for D-1 to
D-4, D-6 and D-10.
Mr. Gaurav Barathi and Mr. Harsh
Gupta, Advs. for D-11.

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T

O.A. 166/2024 (For setting aside impugned order dated 02.09.2024)

1. *Vide* the present chamber appeal under Chapter IV *Rule 3* sub-rule (d) of the Delhi High Court (Original Side) rules, 2018¹, the defendant no.11 (now defendant no.8) seeks to challenge the order dated 02.09.2024² passed by the learned Joint Registrar, wherein his written statement has

¹hereinafter referred to as "*Original Side Rules, 2018*"

² hereinafter referred to as "*impugned Order*"



been ordered to be taken off the record due to non-curing of the defect attributable to the defendant no.11.

2. The present appeal has been filed by defendant no.11 in a suit for permanent injunction and other ancillary reliefs instituted by the plaintiff against the defendants, including the said defendant no.11.

3. Since the issue in the present appeal is pertaining to the (filing of) written statement by the defendant no.11, this Court is confining itself to the relevant facts connected therewith.

4. The defendant no.11 filed its written statement on 08.08.2018 vide diary no.199399/2018 to the plaint in the present suit i.e. CS(COMM) 987/2018. Subsequently, vide order dated 20.08.2018, this Hon'ble Court referred the parties to Delhi High Court Mediation and Conciliation Centre³ for disputes resolution *inter se* the parties.

5. The learned counsel for the defendant no.11 contended that as per the Case History available on the official website of this Court: "<https://delhihighcourt.nic.in/web/>"⁴, as late as on 10.01.2019, there was no objection/ defect in the filing of the written statement vide Diary No.199399/2018. Therefore, learned counsel was under the *bona fide* impression that there was indeed no objection/ defect therein. The parties were in the meanwhile before the DHCMCC from 2018 (until 2024) and no effective proceedings were going on either before this Court and/ or the learned Joint Registrar. When the present suit was listed before this Court on 13.08.2024, the same was sent before the learned Joint Registrar for further proceedings. Since the objection/ defect in filing of the written

³ hereinafter referred to as "*DHCMCC*"

⁴ hereinafter referred to as "*official website*"



statement vide Diary No.199399/2018 had not been cured for the past *six years*, the right of the defendant no.11 for filing the said written statement was struck off vide impugned order dated 02.09.2023.

6. The learned counsel further contended that the written statement along with the *vakalatnama* was timely filed within the statutory period of 30 days on 08.08.2018, but without the affidavit of admission/ denial to the plaintiff's documents, since the defendant no.11 did not intend to file the same. All throughout learned counsel for the defendant no.11 was diligently checking the Case History on the official website, which showed no objection/ defect. Based thereon the defendant no.11 assumed that the written statement was already forming a part of the record.

7. The learned counsel yet further contended that even otherwise, filing of a written statement in the absence of the affidavit of admission/ denial is not itself *non-est* filing, and, becomes so, only if the Registry intimates the objections or when the objections come into the knowledge of the defendant no.1 and the same is not rectified. Reliance was placed upon *Cosco International Pvt. Ltd. vs. Jagat Singh Dugar*⁵, *Cosco (India) Limited vs. Paramsukh Nirman Pvt.*⁶, and *Radha Phool Fin-Investments Pvt. Ltd. vs. Paramsukh Nirman Pvt.*⁷.

8. The learned counsel yet further contended that it is not in dispute that the parties were under negotiations before the DHCMCC from 2018 until late 2023 and during such time the said objection/ defect never came to the attention of the defendant no.11. Even otherwise, as per *Greaves*

⁵2022 SCC OnLine Del 1113

⁶2019 SCC OnLine Del 9633

⁷2024 SCC OnLine Del 5414



*Cotton Limited vs. Newage Generators Private Limited*⁸ and *Bharat Singh vs. Karan Singh & Ors*⁹, the time spent in mediation proceedings, is precluded while calculating the limitation for filing/ re-filing written statement.

9. The learned counsel yet further contended that despite thereto, the learned Joint Registrar in violation of the principles of natural justice and in an arbitrary fashion failed to give any opportunity to rectify the objection/ defect. It is a well settled law that procedural law is to supplement the substantive law and the same is not intended to be punitive. In effect, it is implied that no prejudice shall be caused to the plaintiff, if the written statement is taken on record.

7. *Per Contra*, Ms. Mamta Rani Jha learned counsel for the plaintiff has submitted that the present appeal is merely a dilatory tactic and the impugned order is a well-reasoned order in terms of Chapter II *Rule 3 (60)*¹⁰ of the Original Side Rules, 2018, particularly, since it was bereft of an affidavit of admission/ denial, which is a precondition under Chapter VII *Rule 3*¹¹ of the same Original Side Rules, 2018. In any event, the objection/ defect was present/ visible *vide* “**URGENT NOTICE**” issued

⁸ 2019:DHC:172

⁹ 2025:DHC:777

¹⁰(60) *Applications for enlargement or abridgment of time including applications to foreclose the right to file the written statements and replies or applications seeking extension of time for leading evidence and foreclosing the right to lead evidence.*

¹¹ “3. *Affidavit of admission/denial of documents alongwith written statement – Alongwith the written statement, defendant shall also file an affidavit of admission/denial of documents filed by the plaintiff, without which the written statement shall not be taken on record. Along with the written statement, the defendant shall be entitled to file applications for interrogatories; application for discovery; and application for inspection of such documents.*



by the Registry of this Court on 18.08.2022¹². Reliance was placed upon *SCG Contracts India Pvt. Ltd. v. K.S. Chamankar Infrastructure Pvt. Ltd.*¹³, *ITD Cementation India Ltd. vs. Indian Oil Corporation Limited & Anr.*¹⁴, *Mayank Gupta vs. Aditya Birla Fashion & Retail Ltd.*¹⁵ and *Pragati Constructions Consultants vs Union of India & Ors.*¹⁶, to contend that the filing of the written statement is a *non-est* filing, if it is not accompanied along with the requisite affidavit of admission/ denial of documents, and the time for filing thereof cannot be extended further. In fact, as per *Unilin Beheer B.V. vs. Balaji Action Buildwell*¹⁷, the absence of filing the affidavit of admission/ denial along with the written statement is liable to be struck off the records. Reliance was also placed upon *Friends Motel Pvt. Ltd. vs. Shreeved Consultancy LLP & Ors.*¹⁸ and *3M Company vs. Mr. Vikas Sinha & Anr.*¹⁹.

8. This Court has heard both Mr. Gaurav Barathi, learned counsel for defendant no.11 and Ms. Mamta Rani Jha, learned counsel for the plaintiff and has also gone through the pleadings and the relevant documents on record along with the relevant judgments cited during the course of arguments.

9. As per Chapter II *Rule 3 (60)* and Chapter VII *Rule 3* of the Original Side Rules, 2018, the written statement filed by a defendant can only be taken on record, if accompanied with an affidavit of admission/

¹² hereinafter referred to as "*Urgent Notice*"

¹³2019 SCC OnLine SC 226

¹⁴ 2023 SCC OnLine Del 6263

¹⁵ 2023 SCC OnLine Del 1485

¹⁶ 2025 SCC OnLine Del 63

¹⁷2019 SCC OnLineDel 8498

¹⁸2020:DHC:271

¹⁹ 2022:DHC:2447



denial, if not, then the defendant (defendant no.11) has to make out/ show sufficient cause for failure to do so within the allotted time, *albeit*, subject to rectification of the objection/ defect, after seeking extension of time by way of an application therefor. Although, defendant no.11 was required to be communicated of the objection/ defect, for rectification thereof within a period of *30 days* thereafter.

10. In the present case, although the defendant no.11 filed its written statement vide Diary No.199399/2018 on 08.08.2018, however the same was not accompanied with the affidavit of statement of admission/ denial of the plaintiff's documents as mandatorily required under the CC Act.

11. The Registry of this Court issued an "**URGENT NOTICE**" dated **18.08.2022** with respect to "*Documents lying under objection at the filing counter of the Original Side till 31st December, 2019*" wherein it was specified that "... ..all the Advocates/ Litigants may collect their respective documents from the Filing Counter (Original Side) on all working days latest by **15th September, 2022**. It is also informed that in the event of their failure to collect, the same shall be weeded out immediately thereafter without any further notice." The same was duly accompanied with a Table giving the list of the case details under objections, wherein the details of the written statement filed by the defendant no.11 vide diary no.199399 on 08.08.2018, *admittedly*, found mention therein as under:-

S. No.	CASE CATEGORIES	CASE NO.	CASE YEAR	DIARYNO.	DATE OF FILING
56.	SUIT	987	2018	199399	08.08.2018

12. In view of the "**URGENT NOTICE**", the allegation of non-communication by the Registry of this Court stood vitiated. Moreover,



despite the “**URGENT NOTICE**” being available on the official website, neither the defendant no.11 nor its counsel has rectified/ removed the objection/ defect therein nor filed any application seeking condonation of delay. Therefore, the defendant no.11 has not complied with the provisions of the CC Act as also Chapter II *Rule 3 (60)* and Chapter VII *Rule 3* of the Original Side Rules, 2018 and cannot, now, by way of the present appeal seek to cover its lapses to rectify and wriggle out of its own mistake.

13. Further, the defence taken by the defendant no.11 for not filing the affidavit of admission/ denial of the plaintiff’s documents is clearly an afterthought as the same was never mentioned anywhere before evading the “**URGENT NOTICE**” issued by the Registry of this Court.

14. Even otherwise, as can be inferred from the order dated 17.04.2023, the mediation proceedings *inter se* the plaintiff and the defendant no.11 had failed and it was further recorded therein that the present suit was to proceed against the other defendants, including the defendant no.11 herein.

15. Since the time limit of *120 days* for rectifying the defects and getting the written statement on record long stood lapsed, due to the delay attributable to the defendant no.11, the learned Joint Registrar has rightly ordered the written statement of the defendant no.11 to be taken off the record.

16. Reliance may be placed upon *Friends Motel Pvt. Ltd. (supra)* wherein it was held that the limitation period for filing the written statement in commercial suits is a maximum period of *120 days* and *3M Company (supra)* wherein it has been held that the objectives of the



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Commercial Courts Act, 2015 is to augment speedy disposal of the commercial suits.

17. In view of the aforesaid, this Court finds that none of the (other) judgments cited either of the parties are applicable and are thus neither being referred to nor adjudicated upon.

18. Accordingly, the present chamber appeal being frivolous, an afterthought and being an abuse of the process of law, is dismissed with costs of *Rs.25,000/-* payable to the Army Central Welfare Fund [Account No. 520101236373338 and IFSC Code UBIN0530778] by the defendant no.11 within a period of *four weeks*.

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19. List before the learned Joint Registrar for further proceeding on 21.07.2025.

SAURABH BANERJEE, J.

MAY 15, 2025/bh