



2025:DHC:5848



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of Decision: 18<sup>th</sup> July, 2025***+ **CM(M) 933/2025 & CM APPL. 30527-30528/2025****MANOJ BABBAR & ANR.**

.....Petitioner

Through: **Mr. Nimish Chib, Advocate.**

versus

**DR. ER. RAJAINDEERR JAINA & ORS.**

.....Respondent

Through: **Mr. Aggarwal, Advocate.****Ms. Harita Mehta, Advocate for MCD.****CORAM:****HON'BLE MR. JUSTICE MANOJ JAIN****J U D G M E N T (oral)**

1. Petitioners are defendant Nos. 2 and 3 before the learned Trial Court take exception to order dated 24.04.2025 whereby their application has been dismissed by learned Trial Court and it has refused to interfere with its previous order dated 20.03.2024 whereby their right to file written statement was closed.
2. The suit in question seeks permanent and mandatory injunction and also damages/ mesne profits.
3. Plaintiff happens to be the father of the defendant No.1.
4. As far as defendant No.1 is concerned, his written statement has been taken on record.
5. Learned counsel for defendant Nos. 2 and 3 submits that his case was,



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virtually, similar to defendant No.1 and even defendant No.1 had not received the complete set of documents and when his counsel appeared before the learned Trial Court on 20.03.2024 and made a complaint in this regard, learned Trial Court treated defendant No.1 differently, and rather provided him with the complete set of plaint and annexures from the judicial file and permitted him to even take photographs of some of the pages from the judicial file and, thereafter, directed him to file written statement within a period of 30 days.

6. It is argued that the case of defendant Nos.2 and 3 was also similar as they had not received the complete plaint and annexures, along with the summons and when they tried to highlight the abovesaid aspect before the learned Trial Court, their right to file written statement was closed, merely on the ground that they had been served on 06.10.2023 and despite expiry of more than five months, they had not bothered to file any written statement.

7. One thing is, indeed, intriguing. If at all, the defendants Nos. 2 and 3 were not served with the complete set of plaint and documents, there was no one to have prevented them to have immediately come to the Court with appropriate request.

8. However, they did not take any step in this regard and rather appeared before the learned Trial Court after more than five months and, thereafter, they made a request in this regard and sought time to file written statement.

9. Needless to emphasize, the initial period of filing written statement is 30 days and, therefore, once summons are served, any defendant should make best endeavor to file written statement within the abovesaid initial period of



30 days.

10. If at all, any such person has some grievance with respect to the documents, not being complete or for that matter not legible enough, instead of coming to the Court after four or five months, it should rather approach the Court within the abovesaid given 30 days with appropriate request.

11. For the reasons best known to the petitioners herein, they did not make any such request on receipt of the summons, which according to them was not accompanying complete set of plaint.

12. To that extent, this Court does not find any illegality and perversity in the impugned order.

13. However, admittedly, the plea taken by defendant No.1 (son of the plaintiff) was also almost similar and the learned Trial Court, on same date, somehow, granted him indulgence and he was not only given complete set of plaint and documents but was also given further time to file written statement.

14. Learned counsel for respondents appear on advance notice and leaves it to the Court to pass appropriate order.

15. When asked, both the sides, in all fairness, apprised that the pleadings are yet not complete and the issues have yet not been framed.

16. The suit in question is a regular suit and, admittedly, the timeline provided for filing of written statement is directory and not mandatory and rigid.

17. Though, the petitioners should have been watchful and cautious and



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should have, immediately, approached the learned Trial Court, if they were of the view that they were not provided with the complete set of plaint, keeping in mind the overall facts of the case and the fact that indulgence was given to defendant No.1, who was also, almost, similarly situated and in the interest of justice, the present petition is disposed of with direction that the written statement filed by defendant Nos. 2 and 3 on 01.07.2024 shall be deemed to be on record.

18. However, for causing delay in the matter, the petitioners are burdened with a cost of Rs. 30,000/-, which shall be paid to the plaintiff on the next date of hearing, which is stated to be 28.07.2025.

19. The petition stands disposed of in aforesaid terms.

**(MANOJ JAIN)**  
**JUDGE**

**JULY 18, 2025/sw/JS**