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IN THE HIGH COURT OF DELHI AT NEW DELHI

CS(OS) 191/2023

ANIL KUMAR VOHRA & ORS.

..... Plaintiffs

Through: Mr. Shivam Goel, Adv. (joined
through VC) and Mr. Karan Jain,
Adv. (physically)

versus

RADHIKA JAIN & ORS.

..... Defendants

Through: Ms. Swastika Singh, Adv. for
D-1 to 3

CORAM:

**JOINT REGISTRAR (JUDICIAL) MS. PRIYA
MAHENDRA, (DHJS)**

ORDER

% **05.10.2023**

CS(OS) 191/2023

As per office note, Written Statement alongwith Affidavit of Admission/Denial of the documents filed by the defendant no.1 is on record. It is stated by learned counsel for the defendant no.1 that she has also filed an application seeking condonation of delay in filing Written Statement vide diary no.1810441/2023. However, the same is not on record. Learned counsel for the defendant no.1 undertakes to check up the same with the Registry and get the same placed on record after removing the objections, if any.

Learned counsel for the plaintiff submits that he has received copy of said condonation of delay application. The plaintiff is at liberty to file reply to the said condonation of delay application within two weeks with copy to the opposite side, who is at liberty to file rejoinder, if any, within two weeks thereafter with copy to the opposite side.

At this stage, the learned counsel for the defendant



no.1 submits that she has also filed Counter Claim. The learned counsel for the plaintiff submits that he has not received any Counter Claim. In fact, the defendant no.1 has filed Written Statement cum Counter Claim and no separate Counter Claim has been filed.

On perusal of the Written Statement filed by the defendant no.1, it is found that the title of the same describes it as a Written Statement with Counter Claim. The Counter Claim cannot be made part of the Written Statement as per Order VIII, Rule 6A of CPC. So, the defendant no.1 is directed to file Written Statement and Counter Claim separately as per law.

At this stage, it is pointed out by learned counsel for the plaintiff that the Affidavit of Admission/Denial of the documents filed by the defendant no.1 is not in accordance with the provision of Rule 4 of Order XI of the Commercial Courts Act. He submits that Chapter VII, Rule 7 of Delhi High Court (Original Side) Rules clearly provides that the Affidavits of Admission/Denial of the documents filed by the parties should be in accordance with the provisions of Rule 4 of Order XI of the Code as applicable under the Commercial Courts Act.

No plausible explanation has been furnished by learned counsel for the defendants no.1 to 3 for not following Rule 7 of Chapter VII of Delhi High Court (Original Side) Rules. Solely in the interest of justice, one more opportunity is granted to the defendant no.1 to file fresh Affidavits of Admission/Denial of the documents as per law within two weeks with copy to the opposite side.

No Written Statement has been filed by defendant



no.2&3 and defendant no.5 to 6 till date. Needless to say, the Written Statement, if any, filed by the defendant no.2 to 6 shall be made part of the record as per law.

Citations filed by the plaintiff qua service of the defendant no.7 to 9 and D-28 to 32, perused. Learned counsel for the plaintiff has, fairly conceded that in the Citations, the case title/name of the parties is incorrect. In view of above-said and at the request, the defendant no.7 to 9 are allowed to be served afresh with notice of captioned IA by way of publication in English daily newspaper '*The Statesman*' and Hindi daily newspaper '*Dainik Jagran*', having circulation at the last known address of said defendants, on filing of PF by the applicant and depositing necessary publication charges.

At request, the defendant no.28 to 32 are allowed to be served afresh with notice of captioned IA through publication in English daily newspaper '*The Statesman*' and Hindi daily newspaper '*Dainik Jagran*', having circulation at the last known address of said defendants on filing of PF by the applicant and depositing necessary publication charges and the said defendants be also served through Whatsapp. The plaintiff is directed to file Affidavit of Service in respect to Whatsapp service of the said defendants.

Affidavit of Service filed by learned counsel for the plaintiff for service of defendant no.34 to 37 is on record. At request, the plaintiff is allowed to file Additional Affidavit confirming the e-mail ID of the said defendants.

The defendant no.26 & 27 are not served through

Ministry of Law and Justice. The report has been received



from the Ministry of Law and Justice, Department of Legal Affairs. At this stage, it is stated by learned counsel for the plaintiff that in the meantime, he has procured the e-mail addresses of defendant no.26&27 and permission may be granted to him to serve the said defendants through e-mail. Upon furnishing the e-mail ID of defendant no.26&27 to the Registry and on taking steps by the plaintiff, the defendant no.26&27 be served with summons of the suit through e-mail. Affidavit of Service be filed by the plaintiff in this regard.

No Written Statement has been filed by defendant no.10 to 25, defendant no.33 and defendant no.38 to 40 till date. None is present on behalf of said defendants today to explain in this regard. Needless to say, Written Statement, if any, filed by defendant no.10 to 25, defendant no.33 and defendant no.38 to 40 shall be made part of the record as per law.

In view of above and since the date before the Hon'ble Court is short, the matter may be placed before the Hon'ble Court on date fixed i.e. 09.10.2023, for further directions.

IA Nos.5503/2023 (Stay) moved by the plaintiff

No reply to the captioned IA has been filed by any of the served defendants till date.

Learned counsel for the defendant no.1 to 3 seeks some time to file the same.

No reply has been filed by other served defendants i.e. defendant no.4 to 6, defendant no.10 to 25, 33 and 38 to 40 till date. So, the right of the said defendants to file reply to captioned IA is ordered to be closed.



Citations filed by the plaintiff qua service of the defendant no.7 to 9 and D-28 to 32, perused. Learned counsel for the plaintiff has, fairly conceded that in the Citations, the case title/name of the parties is incorrect. In view of above-said and at the request, the defendant no.7 to 9 are allowed to be served afresh with notice of captioned IA by way of publication in English daily newspaper '*The Statesman*' and Hindi daily newspaper '*Dainik Jagran*', having circulation at the last known address of said defendants, on filing of PF by the applicant and depositing necessary publication charges.

At request, the defendant no.28 to 32 are allowed to be served afresh with notice of captioned IA through publication in English daily newspaper '*The Statesman*' and Hindi daily newspaper '*Dainik Jagran*', having circulation at the last known address of said defendants on filing of PF by the applicant and depositing necessary publication charges and the said defendants be also served through Whatsapp. The plaintiff is directed to file Affidavit of Service in respect to Whatsapp service of the said defendants.

Affidavit of Service filed by learned counsel for the plaintiff for service of defendant no.34 to 37 is on record. At request, the plaintiff is allowed to file Additional Affidavit confirming the e-mail ID of the said defendants.

The defendant no.26 & 27 are not served through Ministry of Law and Justice. The report has been received from the Ministry of Law and Justice, Department of Legal Affairs. At this stage, it is stated by learned counsel for the plaintiff that in the meantime, he has procured the e-mail



addresses of defendant no.26&27 and permission may be granted to him to serve the said defendants through e-mail. Upon furnishing the e-mail ID of defendant no.26&27 to the Registry and on taking steps by the plaintiff, the defendant no.26&27 be served with summons of the suit through e-mail. Affidavit of Service be filed by the plaintiff in this regard.

In view of above and since the date before the Hon'ble Court is short, place captioned IA before the Hon'ble Court on date fixed i.e. 09.10.2023, for further directions.

IA No. 5505/2023 (for appointment of guardians for defendant nos.3, 18, 19, 25 and 40)

No reply to the captioned IA has been filed by the served defendants till date. It is stated by learned counsel for the defendant no.1 to 3 that she does not wish to file any reply to the captioned IA.

No reply has been filed by other served defendants i.e. defendant no.10 to 25, D-33 and D-38 to 40 till date. So, the right of the said defendants to file reply to captioned IA is ordered to be closed.

In view of above and since the date before the Hon'ble Court is short, place captioned IA before the Hon'ble Court on date fixed i.e. 09.10.2023, for further directions.

PRIYA MAHENDRA (DHJS)
JOINT REGISTRAR (JUDICIAL)
OCTOBER 5, 2023/ab

Click here to check corrigendum, if any