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

CS(OS) 567/2021

ARSHAD NIZAM SHAWL

.....Plaintiff

Through: Mr. Karan Mamgain, Adv.

versus

THE OUTLOOK GROUP AND ORS.

.....Defendants

Through: Mr. Rajat Sehgal, Adv. for D-4

**CORAM:**

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

**ORDER**

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**12.09.2024**

**IA 17009/2023 (Application u/S. 5 Limitation Act filed by defendant no.4 for condonation of delay in filing Written Statement)**

1. Vide order dated 10.07.2024, the right of the plaintiff to file reply to the captioned IA was ordered to be closed.

2. Arguments heard and record perused. It is stated by learned counsel for the plaintiff that this court has already noted on the last date of hearing i.e. 29.07.2024 that there is delay of more than 120 days in filing Written Statement by the defendant no.4 from the date of service. He further submits that the Hon'ble Division Bench of Delhi High Court on 23.08.2024 in *“Manhar Sabharwal Vs. H.C. of Delhi & Ors., 2024 SCC OnLine Del 5945*, upheld constitutional validity of Rule 4 of Chapter VII of Delhi High Court Rules which mandates a strict timeline of 120 days for filing of Written Statement even in non-commercial matter. It also held that the provisions of Delhi High Court Rules will have overriding effect over other provisions of CPC in case of any conflict in view of Section 129 of CPC. Further, it was held that the phrase “but not thereafter” in Rule 4&5 of Delhi High Court



Rules is mandatory in nature.

3. At this stage, learned counsel for the defendant no.4 submits that the said order passed by Hon'ble Division Bench of Delhi High Court as relied on by the learned counsel for the plaintiff has been further assailed before the Hon'ble Supreme Court of India but the same is not yet listed.

4. In the order passed in i) ***Ms. Charu Agarwal Vs. Mr. Alok Kalia & Ors.***, 2023/DHC/001454 and 2) ***Ashish Khanna & Ors. Vs. Delhi Gymkhana Club & Ors.***, MANU/DE/5933/2023, it is already held that 120 days period for filing Written Statement by the defendant is non-negotiable and aforesaid order passed by Hon'ble Division Bench has further upheld the said proposition of the law. In view of above, Written Statement filed by defendant no.4 having been filed beyond the period of 120 days of service, is ordered to be taken off record. Accordingly, the captioned IA is dismissed and disposed of.

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5. Learned counsel for the plaintiff submits that the present suit has been settled qua defendant no.1 to 3 and they are removed from the array of the parties vide order dated 22.02.2022.

6. At this stage, it is pointed out by learned counsel for the plaintiff that in order dated 14.02.2023, it is recorded that the defendant no.5 has not appeared despite service. He submits that defendant no.5 never appeared thereafter. No Written Statement has been filed defendant no.5 till date and even none is present on behalf of defendant no.5



today to explain in this regard. So, the right of defendant no.5 to file Written Statement is ordered to be forfeited.

7. Written Statement filed by defendnat no.4 is ordered to be taken off record vide order of even date.

At request of learned counsel for the plaintiff, the matter may be placed before the Hon'ble Court on 21.10.2024, for further directions.

**PRIYA MAHENDRA (DHJS)**  
**JOINT REGISTRAR (JUDICIAL)**  
**SEPTEMBER 12, 2024/ab**  
*[Click here to check corrigendum, if any](#)*