

CS No.379/2021

Naresh Kumar Vs. Delhi Gymkhana Club Limited

31.01.2026

Present: Sh. K. Gangadharan, Ms. Saloni and Sh. Manjeet Kapil, Ld. Counsels for the plaintiff.

Ms. Raavi Birbal, Ld. Counsel for the defendant.

The legal heirs of the plaintiff has filed one application U/o. XXII Rule 3 read with Section 151 CPC along with another application U/s. 5 of Limitation Act seeking condonation of delay in filing the accompanying application. It is averred in the application that plaintiff expired on 25.04.2024 leaving behind his wife and son as the only legal heirs as mentioned in paragraph 3 of the application.

An application U/s.5 of Limitation Act has also been filed stating therein that legal heirs were not aware about the present suit and they came to know through one Ram Sewak, who visited their house on 17.10.2024 and informed that the present suit is pending before the court and thereafter he immediately intimated the counsel and filed the instant application. On that basis, applicant has sought condonation of delay in filing the above application.

The defendant has filed composite reply controverting the averment. It is mentioned that application for impleadment should have been filed within 90 days which has not been done, therefore, the application cannot be allowed. All further averments have been denied.

I have heard Ld. Counsel for the parties filing the applications and its reply. Vide application U/o. XXII Rule 3 read with Section 151 CPC, plaintiff has sought their impleadment as legal heirs of the plaintiff, who as per them, has

died on 25.04.2024. Copy of death certificate is annexed along with the application.

The application U/s. 5 of Limitation Act should have been filed within a period of 90 days from the death of the deceased/plaintiff i.e. by 25.07.2024. However, the application, through online mode, was filed on 28.10.2024 i.e. after around more than 90 days from the date of expiry of period of limitation. The reason assigned for seeking condonation of delay in filing the application is that the legal heirs were not aware about the pendency of the present suit and they came to know about the same only on 17.10.2024 from Ram Sewak, one of the friend of the deceased/plaintiff, whose suit is also pending. It is further averred that Ram Sewak himself was bed-ridden for the last more than six months and, therefore, he could also not visit the house of the legal heirs to apprise them about the pendency of the suit.

Though, the application should have been filed within the statutory time, however, they were not aware about the pendency of the suit, thus they could file the application after coming to know about the pendency of litigation, i.e. on 17.10.2024.

The instant application has been filed soon thereafter without any delay. Taking into consideration the above facts and circumstances as well as in the interest of justice, application filed by the plaintiff/legal heirs U/s.5 of Limitation Act along with application U/o. XXII Rule 3 read with Section 151 CPC are allowed. The legal heirs of deceased Naresh Kumar as mentioned in paragraph No.3 of the application are impleaded. The plaintiff is directed to file fresh amended memo of parties.

Plaintiff has filed one application U/o. VII Rule 14 (3) read with Section 151 CPC for placing on record Special Power of Attorney executed by Smt. Beena in favour of her son. Smt. Beena is directed to remain present in the court on the next

date of hearing.

Put up for filing amended memo of parties, framing
of issues and presence of Smt. Beena on **11.03.2026**.

(Pitamber Dutt)

Principal District & Sessions Judge

New Delhi District

Patiala House Courts/ND/31.01.2026