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CS DJ ADJ 1056/25
LAL SINGH
Vs.
RACHNA YADAV

Present: Mr Kartikey, Ld. counsel for plaintiff a/w plaintiff
Mr Kashish Arora, Ld. counsel for defendant Nos.
1,3 and 4
None for defendant No.2

O R D E R
16.05.2026

1. Vide order dated 19.11.2025, all the defendants were served on 25.09.2025. Till date neither defendant No.2 appeared before this court nor any WS has been filed by defendant No. 2. Accordingly, defendant No. 2 is proceeded ex parte.
2. Today counsel for plaintiff has filed reply to the application under Order 7 rule 11 CPC filed on behalf of defendant Nos. 1,3 and 4 alongwith replication to the WS and reply to the application under order 8 Rule 1 CPC for condonation of delay filed on behalf of defendant Nos.1,3 and 4.
3. Arguments on the application under Order 8 Rule 1 CPC heard.
4. It is stated in the application for condonation of delay that due to the death of Narender Yadav, defendant No.1 is the sole earning member and defendant Nos. 3 and 4 were depend upon him and due to the compelling circumstances, financial hardship and emotional distress the written statement could not be filed within the stipulated period of time. Hence, there has been a delay of 105 days in filing the written statement.

5. Per contra, Ld. counsel for plaintiff has vehemently opposed the application and stated in the reply that defendant Nos. 1,3 and 4 were well aware that they had been filed the written statement within the stipulated period of time and that no ground has been mentioned in the application specifically mentioning the delay of 105 days. Moreover, the fact that the defendant No.1 has been struggling, financially and emotionally sustained herself and her minor children by managing the house of responsibilities if devoid of any detailed fact and per se vague ground for requesting condonation of delay.

6. After going through the records and submissions of the parties, it is pertinent to note that summons were served upon all the defendants on 25.09.2025 and the written statement has been efiled on 05.01.2026. Accordingly, there is delay of more than 90 days in filing the same. However, it settled position of law that in **Kailash vs. Nankhu (2005)4 SCC 480 and Salem Advocate Bar Association, Tamil Nadu Vs. Union of India(2005) 6SCC 344**, the words 'shall not be later than ninety days' used in Order VIII Rule 1 of CPC were interpreted by the Hon'ble Supreme Court. The Hon'ble Court after considering the said provision held that though the provision under Order VII Rule 1 of CPC is couched in negative form, however it does not take away the power of the Court to extend the period of filing of the written statement beyond 90 days. The same view was again taken by the Hon'ble Supreme Court in **Bharat Kalra vs. Raj Kishan Chabra, Civil Appeal no. 3788 of 2022 (Arising out of SLP (C)No. 63 of 2022) decided on 09.05.2022** wherein the Hon'ble Court condoned the delay of 193 days in filing of the written statement.

Thus, Order VIII Rule 1 of CPC has been held to be discretionary and not mandatory in nature. This in essence means that the Court has the discretion to extend the time period for filing the written statement, if the Court was satisfied that the extension was required beyond the period of 90 days.

7. Since, procedural law is handmaid of justice, **in the interest of justice delay is condoned and application is allowed subject to cost of Rs 10,000/- out of which Rs 5000 is to be paid to the plaintiff and Rs 5000 to the DLSA, South West, Dwarka, New Delhi. Written statement is taken on record.**

8. Ld. counsel for defendants is directed to supply the copy of the written statement to the counsel for plaintiff.

9. Plaintiff is at liberty to file replication, if any, on or before the NDOH. Advance copy be supplied to the counsel for defendant.

10. Both parties are directed to file affidavit of admission denial of documents. Copies be exchanged with each other.

11. Counsel for defendant Nos. 1,3 and 4 submits that he has not received the reply to the application under Order 7 Rule 11 CPC and 8 Rule 1 CPC. Counsel for plaintiff is directed to supply the copies of the said application during the course of day.

12. List this matter for arguments on both the applications/ completion of pleadings on **14.08.2026**.

(Tavleen Kaur Mohi)
District Judge-02, South-West,
Dwarka Courts, Delhi
16.05.2026