

17.01.2026

Present: Sh. Pankaj Sharma, Ld. Counsel for plaintiff,
(through VC).
Sh. Unmukt Gera (through VC) and Sh. Pankaj
Jaiswal, Ld. Counsels for defendant no. 1& 2 along
with D1 and D2.
None for D3.

Perusal of the record reveals that on 03.04.2025 D3/Wasim was duly served, however, he was absent on the said date despite service and neither anyone appeared on his behalf, accordingly time was given to D3 for filing WS. However, no WS has been filed by D3 till date neither any appearance has been put by D3.

From the conduct of D3, it is evidently clear that he is not interested in contesting the present suit. As such, the right of D3 to file WS is hereby closed. Further, D3 is also hereby proceeded exparte.

Three applications of the defendants are pending consideration. One filed u/o 8 Rule 1 CPC seeking condonation of delay in filing the WS another u/o 7 Rule 10 CPC and another u/s 151 CPC.

Ld. Counsel for the plaintiff submits that his reply to the application of the defendant filed u/o 7 Rule 10 CPC and Section 151 CPC is already on record. It is further submitted that in respect of the application u/o 8 Rule 1 CPC he do not wants to file any written reply and would be straight away arguing on the same. Arguments heard.

It is stated in the application that initially the legible documents were not supplied to the defendant and subsequently due to medical condition of the defendant no.1, the WS could not be prepared and further the defendant no.1 also took time for tracing out the old documents on which the reliance has been placed by the defendants and as such the WS could not be filed by D1 and D2 within the statutory period.

Conversely, learned counsel for the plaintiff has opposed the application, contending that no sufficient or reasonable ground has been disclosed to justify the delay and therefore, the right of the defendants to file the written statement deserves to be closed.

I have heard the learned counsel for the parties and have carefully perused the record.

It is evident that there is a considerable delay in filing the written statement by the defendant No. 1 and 2. However, this Court is mindful of the settled position of law that the provision of *Order VIII Rule 1 CPC* is directory and not mandatory. Further the endeavour of the Court should be to decide the matter on merits rather than on technicalities. It is also noted that the suit is still at an initial stage. Furthermore, the replication of the plaintiff to the aforesaid WS of Defendant no.1 and 2 is already on record. ***Accordingly, in the interest of justice, the delay in filing the written statement is condoned, subject to payment of costs of ₹5,000/- by the defendants to the plaintiff, payable on the next date of hearing. The written statement filed by the defendants is taken on record. The application of the defendants filed under Order VIII Rule 1 CPC is disposed of accordingly.***

In respect of the aforesaid two pending applications of the defendants filed u/o 7 Rule 11 CPC and Section 151 CPC, Ld. Counsel for the defendants seeks time for raising arguments.

At request, list the matter for arguments on the application of the defendant filed u/o 7 Rule 10 CPC and another u/s 151 CPC on **22.04.2026**.

(Ravinder Singh II)
DJ-04, North, Rohini Courts,
Delhi/17.01.2026