

CS DJ 490/19

RASHMI ANAND Vs. THE STATE (GOVT. OF NCT OF
DELHI) AND ORS.

28.01.2025

Present: Sh. Deepak Kohli, Ld. Counsel for plaintiff, through
VC.
Sh. Gaurav Kumar, Ld. Counsel for the defendant
no.2, through VC.

Arguments heard on the application filed on behalf
of the defendant no.2 for condonation of delay in filing the
written statement.

Put up for clarifications/orders at 4:00 PM.

(Kishor Kumar)
DJ-04, North, Rohini Courts,
Delhi/28.01.2025

28.01.2025 (4:00 PM)

Present: None.

Vide this order I shall dispose of the application
under Order VIII Rule 1 CPC, filed on behalf of defendant no.2
Dilip Kumar.

It is contended on behalf of the defendant no.2 that
amendment of plaint was allowed on 12.08.2024 and thereafter
the defendant was directed to file WS. It is further contended
that the present file was got misplaced with other files in the
advocate's office and could only be tracked on 16.10.2024 and in
this process there has been delay of around 46 days in filing the
WS. It is prayed that delay in filing the WS on behalf of
defendant no.2 may be condoned.

Per contra, it is contended on behalf of the plaintiff that that defendant no.2 had entered appearance on 24.09.2021, however opted not to file written statement within statutory period and filed the written statement on 26.10.2024. It is further submitted that defendant no.2 cannot revive fresh right to file written statement merely on account of the suit being amended as per law. It is submitted that application deserves to be dismissed being filed on false and concocted grounds.

Submissions made on behalf of the parties are taken into consideration. Record perused.

Perusal of record shows that vide order dated 12.08.2024, application of the plaintiff under Order VI Rule 17 CPC was allowed and the defendant was directed to file written statement within 30 days from that day. Record further reveals that defendant no.2 had filed the written statement on 26.10.2024 which should have been filed till 10.09.2024. In these circumstances, there is delay in filing the written statement. However, such delay cannot be said to be an inordinate delay.

In *Salem Advocate Bar Association, Tamil Nadu vs. Union of India AIR 2005 SC 3353*, it has been clearly held that the provisions including the proviso to Order 8 Rule 1 of the CPC are not mandatory but directory.

The plaintiff has filed the present suit for declaration, possession, permanent and mandatory injunction on the ground that defendant no.2 on false assurance fraudulently obtained the sale deed in respect of the suit property in his favour by misleading the plaintiff and also failed to complete his part of

the obligation within six months and taken the possession forcibly. Under such circumstances of the case, I deem it appropriate to give fair opportunity to the defendant to produce his defence by way of written statement.

Accordingly, in view of above above discussion, the application under Order VIII Rule 1 CPC, moved on behalf of the defendant no.2 is allowed. Written statement is taken on record.

Put up the case for filing replication to the written statement of defendant no.2 and for FP, on 05.04.2025.

(Kishor Kumar)
DJ-04, North, Rohini Courts,
Delhi/28.01.2025