

**IN THE COURT OF MS. NAVITA KUMARI BAGHA, DJ-02 (SOUTH-
EAST), SAKET COURTS, NEW DELHI**

**DJ CS No.105/2023
CNR No. DLSE01-002082-2023**

**Ms. Sikha Guha
W/o Sh. Chandra Shekhar Guha
D/o Late Kamal Kumar Das Gupta
R/o 635, Park Avenue,
Windsor CT 06095, USA**

..... Plaintiff

Vs.

**Ms. Lekha Das Gupta
D/o Late Kamal Kumar Das Gupta
R/o H.No. K-2090, Chittaranjan Park,
New Delhi-110019**

..... Defendant

Suit for Revocation of Relinquishment Deed dated 15.03.2022

ORDER

1. Vide this order, I shall dispose of the application filed by plaintiff U/O.6 R.18 r.w. Sec.148 & Sec.151 CPC for seeking condonation of delay in filing the Amended Plaint.
2. I have heard the arguments from counsel Sh. Animesh Sinha for plaintiff and counsel Sh. Ravi Kapoor for defendant and perused the record.

3. The counsel for plaintiff has submitted that the present suit has been filed by plaintiff for cancellation of Relinquishment Deed dated 15.03.2022 and that immediately after issuance of summons to the defendant, an application U/O.6 R.17 CPC for amendment of Plaint was filed and the said application was allowed by the Court vide order dated 09.02.2024 and the plaintiff was directed to file Amended Plaint and since there is delay of 53 days in filing the Amended Plaint, therefore, the present application has been filed for seeking condonation of said delay and taking on record the Amended Plaint of the plaintiff.
4. But the application has been vehemently opposed by the counsel for defendant who has contended that the application is not maintainable and deserves dismissal because if no time is specified by Court for carrying out the amendment, then as per under O.6 R.18 CPC, the amendment is required to be carried out within 14 days of passing of order and after expiry of said period, the Court is vested with power to further grant extension of 30 days U/Sec.148 CPC, but there is no power vested in the Court to permit a party to file an Amended Plaint beyond the period of 30 days specified U/Sec.148 CPC. He has argued so while placing reliance upon the

following case-laws:

- (i) *Glaxo Smithkline Consumer Healthcare Vs. Anchor Health & Beautycare*, 2009 SCC OnLine Del 1899.
- (ii) *Darshan Singh Vs. Kewal Krishan & Anr.*, AIR 2003 Raj 313.
- (iii) *Tharvinder Singh & Ors. Vs. Viresh Chopra & Anr.*, 2022 SCC OnLine Del 49.
- (iv) *Union of India Vs. Pramod Gupta*, (2005) 12 SCC 1.
- (v) *Rajender Jaina Vs. Rahul Jaina*, 2023 SCC OnLine Del 2883.

5. But the counsel for plaintiff has contended that if sufficient cause is shown, the delay beyond 30 days as prescribed U/Sec.148 CPC can also be condoned as the Court has inherent power to do so under Sec.151 CPC. He has placed reliance upon the following case-laws in support of his contention:

- (i) *Salem Advocate Bar Association, Tamil Nadu Vs. Union of India*, (2005) 6 SCC 344.
- (ii) *Lunarmech Maschinenfabric Ltd. Vs. USF Filtration Ltd.*

& Anr., (2006) 132 DLT 169.

(iii) *Evoke Building Concepts Pvt. Ltd. Vs. Hindware Home Retail Pvt. Ltd., 2010 (120) DRJ 765.*

(iv) *Malini Mehra Vs. State of NCT of Delhi & Ors., 2022 SCC OnLine Del 989.*

(v) *Collector, Land Acquisition Anantnag & Anr. Vs. Katji & Ors., (1987) 2 SCC 107.*

(vi) *Manu Markande & Anr. Vs. State & Ors., 2025 SCC OnLine Del 1763.*

6. In the case of **Salem Advocate Bar Association, Tamil Nadu Vs. Union of India, (2005) 6 SCC 344**, the Hon'ble Apex Court has held that there can be many cases where non-grant of extension beyond 30 days would amount to failure of justice and that the object of the Code of Civil Procedure is not to promote failure of justice and therefore, Sec.148 deserves to be read down to mean that where sufficient cause exists or events are beyond the control of a party, the Court has inherent power to extend the time beyond 30 days.
7. So far as the judgments cited by counsel for defendant i.e. *Glaxo Smithkline (supra)* and *Union of India Vs. Pramod Gupta (supra)* are

concerned, it has been held in Evoke Building Concepts Pvt. Ltd. Vs. Hindware Home Retail Pvt. Ltd., 2010(24) RCR(Civil) 548 as follows:

“The decisions in Pramod Gupta (D) by L.Rs. and Ors. (supra) undoubtedly suggests that the Court is bound by the period prescribed in Order 6, Rule 18 and that in the event of a party defaulting in placing the amended pleadings on the record, the amendments ought to be rejected. Further, at the same time, this Court notices that Salem Advocate Bar Association, Tamil Nadu (supra) case is by a larger Bench of three Judges. That appears to have been pronounced on 02.08.2005, in close proximity with the ruling in Pramod Gupta (D) by L.Rs. and Ors. (supra), which was rendered on 07.09.2005. In Salem Advocate Bar Association, Tamil Nadu (supra), the Court was directly concerned with the power of the Court under Section 148 Code of Civil Procedure and as the extracted portion appears to indicate, unless the period of limitation is prescribed by the legislature itself, such as in the case of statutory enactment like

the Limitation Act, the Court has been held to possess powers under Section 148, to extend the period for the purpose of one or the other obligation spelt-out by it in the course of proceeding. So far as the order in Glaxo Smithkline Consumer Healthcare (supra) is concerned, this Court is inclined to accept the argument of the Defendant that the explanation for the delay was rejected in the order."

(underlining added)

8. It has also been held in Manu Markande & Anr. Vs. State & Ors., 2025 SCC OnLine Del 1763 that the observations made in the decision in **Glaxo Smithkline Consumer Healthcare**, rendered without due consideration of the binding precedent in **Salem Advocate Bar Association**, stand vitiated by *per incuriam*. Regarding the **case of Parmod Gupta**, it has been held that in the case of **Pramod Gupta (D)**, the Supreme Court addressed the consequences of failing to amend pleadings within the time specified in the order or as prescribed under O.6 R.18 of CPC and the Paragraph no.138 of the decision explicitly states that such failure

results in the party being barred from amending the pleadings thereafter, except where the Court exercises its discretion to extend the time.

9. In the present application, the plaintiff has submitted that she had changed her residence from “635, Park Avenue, Windsor CT 06095 USA” to “865, Portside Ct Oshkosh, WI 54901”, a small town in the outskirts of the city and she was not aware about the local notarization and apostilization process in her vicinity and after making much efforts with the acquaintances and neighbors, she was recommended to consult a legal professional to assist her and when she contacted a lawyer, she was informed that though the amended plaint and supporting affidavit could be notarized locally, but apostilization was possible only from the office of concerned Secretary of State which was located in state capital of Wisconsin and that the documents were required to be shipped to the said office where they would be apostilled and then shipped back. It is further submitted that when after sending the documents to the office of Secretary of State, the same were not received back after about 10 days, she called at said office enquiring about the status of the documents and she was intimated that her documents were duly

apostilled and dispatched, but since she had not received the documents, therefore, she reached out to the local Postal Authority where she was informed that the delay had occurred on account of shortage of staff and thereafter, she couriered the apostilled Amended Complaint and supported affidavit to her counsel immediately on 08.04.2024, who received the same on 22.04.2024 in India and since it was Saturday and Sunday on 13.04.2024 and 14.04.2024, so, the Amended Complaint was filed at the earliest on 16.04.2024 by him. It is further stated that the delay was not intentional, rather the same had occurred due to the aforesaid factors beyond her control. It is further stated that irreparable loss would be caused to her if the Amended Complaint is not taken on record.

10. Thus, in the present case, the plaintiff has elaborately and sufficiently explained the cause of delay of 53 days in filing the Amended Complaint. The Hon'ble Supreme Court in the case of **Salem Advocate Bar Association (Supra)** has held as follows:

“The amendment made in Section 148 affects the power of the Court to enlarge time that may have been fixed or granted by the Court for the doing of any act prescribed

or allowed by the Code. The amendment provides that the period shall not exceed 30 days in total. Before amendment, there was no such restriction of time. Whether the Court has no inherent power to extend the time beyond 30 days is the question. We have no doubt that the upper limit fixed in Section 148 cannot take away the inherent power of the Court to pass orders as may be necessary for the ends of justice or to prevent abuse of process of Court. The rigid operation of the section would lead to absurdity. Section 151 has, therefore, to be allowed to fully operate. Extension beyond maximum of 30 days, thus, can be permitted if the act could not be performed within 30 days for the reasons beyond the control of the party. We are not dealing with a case where time for doing an act has been prescribed under the provisions of the Limitation Act which cannot be extended either under Section 148 or Section 151.”

11. Since the plaintiff in the present case has shown good cause for delay, therefore, in view of the aforesaid case-law, the plaintiff's

application is allowed and delay is condoned. Her Amended Plaint is taken on record.

**(Announced in open
Court on 09.05.2025)**

**(Navita Kumari Bagha)
DJ-02, South-East District,
Saket Courts, New Delhi**