

CS No. 800/23
Mamta vs. Presidium

23.07.2025

Present : Sh. Rajesh Sharma Ld. Counsel for plaintiff
through VC.
Sh. Dev Nagar Ld. Counsel for all defendants.

Today, matter is listed for arguments on application u/o
1 R 10 CPC and application u/o 8 R 1 CPC filed by defendants.

Arguments heard on application u/o 8 R 1 CPC.

Put up for order on aforesaid application at 3.00 pm.

(Gaurav)
District Judge-01/ SHD
KKD/Delhi/23.07.2025

(03.25 pm)

Present : None.

1. Vide this order, I shall dispose of the application under Order VIII Rule 1 of Civil Procedure Code, 1908 (*hereinafter referred to as "CPC"*) filed by defendant no. 1 for seeking condonation of delay in filing written statement.

2. Reply to the aforesaid application has been filed by plaintiff, denying all the assertions made therein and has prayed for dismissal of the aforesaid application.

3. Arguments were heard at length on behalf of Ld. Counsels for parties.

4. Ld. Counsel for the defendant no. 1 contended that the

summons was received on 04.01.2024 at Punjabi Bagh. Upon receiving the summons, the information was relayed to their workplace in Ghaziabad, and thereafter, an advocate was engaged to represent in the present matter. However, the advocate could not appear before the Court on the scheduled date of hearing, i.e., 22.01.2024, due to a religious engagement involving the inauguration of a temple dedicated to Lord Ram.

5. He further contended that the copy of the plaint was arranged only in March, 2024 and, consequently, the written statement was prepared and filed in the month of April, 2024. The delay, therefore, is sought to be condoned citing religious reasons and logistical constraints in obtaining the copy of the plaint.

6. Per contra, the Ld. Counsel for the plaintiff has vehemently opposed the present application stating that no valid or sufficient grounds have been made out to condone the delay. The complete copy of the plaint and documents were shared through WhatsApp on 24.01.2024 and again, in hard copy on 27.01.2024, which was duly acknowledged by the advocate for the defendant. Thus, the explanation offered by the defendant, according to the plaintiff, is devoid of merit and deserves to be rejected with heavy costs.

7. Before proceeding further, it is imperative to mention herein that it is a settled principle of law that *“procedure is the handmaid of justice, not its mistress”* and that the procedural laws are

meant to facilitate and not to obstruct the cause of justice. Likewise, substantive rights should not be defeated on technical grounds. Denial of an opportunity to file written statement, especially where rights are to be finally adjudicated, can result in serious miscarriage of justice and violation of the principles of natural justice. The object of the rules of procedure is to secure the ends of justice and not to thwart them. When substantial justice and technical considerations are pitted against each other, the cause of substantial justice deserves to be preferred.

8. In the instant case, it is evident from the record that summons were served upon defendant no. 1 on 04.01.2024. The written statement, however, was filed on 18.04.2024, i.e., after a lapse of approximately 105 days. The explanation offered by the defendant no. 1 that there were delays in obtaining a complete copy of the plaint and that their advocate could not appear on the initial date due to a religious ceremony may not be wholly convincing, particularly in light of the plaintiff's claim that the plaint and documents were shared both electronically on 24.01.2024 and, in hard copy on 27.01.2024. Nonetheless, it is settled law that procedural rules are intended to aid in the administration of justice and should not be interpreted so rigidly as to defeat a party's substantive rights. The primary objective of procedural rules is to ensure a fair trial and adjudication on merits rather than to penalize parties for procedural lapses.

10. In the light of aforesaid facts and circumstances, this Court

finds it appropriate to condone the delay, in the interest of justice. At the same time, the inconvenience and prejudice caused to the plaintiff due to the delayed filing of written statement cannot be ignored and for that plaintiff may be suitably compensated with costs, to balance the equities and ensure fairness in the proceedings. Accordingly, the aforesaid application under Order VIII Rule 1 of CPC, is hereby ***allowed***. The delay in filing written statement filed on behalf of defendant no.1, is hereby ***condoned***. The written statement filed by the defendant no.1 is taken on record, subject to the cost of Rs. 10,000/- to be paid to the plaintiff on the next date of hearing. **The application is disposed of accordingly.**

Replication to the WS of D-1 be filed within four weeks, with advance copy to the opposite party.

Matter be listed for payment of cost, replication and arguments on application u/o 1 R 10 CPC for deletion of D2 and D3 from the array of parties on 10.11.2025.

(Gaurav)
District Judge-01/ SHD
KKD/Delhi/23.07.2025